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THE RELATIVITY OF HISTORY

EVERY age has certain thought-patterns which, originating in one field of knowledge or speculation, spread to and are impressed upon other fields. Since the seventeenth century it has been more and more from the natural sciences that such patterns have been taken. Dazzled by the success of Newtonian physics, eighteenth-century thinkers sought in the social studies to apply Newtonian methods and to attain Newtonian results. Some went so far as to attempt the creation of a social physics or a social mathematics. All delved into the available material in search for a natural order, natural laws, or at least a rationalist interpretation.

The Physiocrats studied the circulation of wealth and the natural laws that governed it. Political scientists endeavored to build up theories of government that would be at once reasonable and natural. Psychologists like Hartley hailed the theory of association as something which would do for the study of human nature what the law of gravitation had done for astronomy. Hume and Gibbon wrote rationalist histories stripped of all the impedimenta of religious doctrines. Condorcet outlined a history which should trace out the workings of natural laws and the triumphs of natural rights.

The influence of Newtonian physics with its emphasis on natural laws has survived even to the present day. But the nineteenth century saw another triumph of natural science that profoundly affected the social studies. Evolution shaped the thoughts of men on political theories until Bluntschli, carrying the biologic analogy to its uttermost limits, saw the state

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as an organism endowed even with the male sex. Economists, gradually abandoning deductions from the rigid laws of the classical theorists, turned to research into the origins and evolution of the economic order. Spencer wedded psychology to biology. Historians wrote of the evolution of institutions.

The influence of the natural sciences upon the social sciences has not always been healthy. Yet analogies drawn from the former have enriched the latter, broadened their point of view and given them new objectives and standards of comparison. Today the social sciences are searching almost frantically for a firm footing on which to proceed. It is interesting to speculate what influence the thought-patterns of the modern physical sciences may have upon their sister studies of society. It is possible that the social sciences, instead of seeking to find perfect analogies in the natural sciences, and adopting and distorting their theories, may rather draw upon them for a new point of view, a way of looking upon the fundamental nature of things. Perhaps they may find that in the austere domain of physics there are growing up certain ideas which are not without significance for other realms of thought. It is true that since 1900 the theoretical side of physics has been in a state of flux and turmoil; but out of the welter are emerging more clearly every day three cardinal principles.

First, *Relativity*. The work of Einstein and his followers has made it clear that in themselves the fundamental concepts of time and distance involved in motion and the physical facts of measurement have no meaning. They are not absolute. They take on significance only when related to some frame of reference. When a physicist speaks today of motion in any larger sense he is careful to say "motion relative to the earth" or "motion relative to the solar system" or "motion relative to Sirius".

Second, *Indeterminism*. Work on the basic phenomena of nature seems to have established, beyond cavil, the fact that many of them are not describable in terms of mechanical determination but only in terms of the so-called laws of chance. Newtonian physics implied that, given adequate knowledge of the circumstances, the future behavior of any given physical

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system could be predicted. Physics today is forced to admit that certain phenomena appear not to be determined at all, but occur rather as if dependent on pure chance. If a beam of light following two or more channels is reduced to a single photon, the channel which the photon will follow cannot, apparently, be predicted, for it seems to depend on sheer chance. If a photon falls on a substance, the atom it will affect seems indeterminable. In the breakdown of radium, the atoms disintegrated can be designated only indefinitely, and then only by the laws of probability.

Third, *Discontinuity*. Since Planck gave to the world his epoch-making quantum theory in 1900, it has become abundantly evident that the fundamental processes of nature are not smoothly flowing or continuous but jerky, made up of separate and apparently unconnected events, and thus discontinuous. Electricity is made up of units which, though theoretically interpenetrating, move and act discretely. Light is composed of photons, or light quanta, which cannot be subdivided. It is even conjectured by some that the electrons in an atom leap from orbit to orbit without covering the intervening space or time.

Now if the social sciences today were progressing happily with their own methods, their own theories, their own philosophy, there would be no need for them to turn to physics for a new point of view. Such is not the case. They have given up the search for deterministic natural laws and even the expectation of finding any. They are not satisfied with describing evolutions of one sort or another. In despair they have turned back upon their own material, to dig it out, describe it, catalogue it and analyze it statistically in the hope that some day some one will bring forth new theories and new principles of synthesis to give meaning to the inchoate mass. But even while they do so, they realize more and more clearly that the material with which they are dealing has in itself little significance.

Take history for an example. Based on the work of Ranke and other historians of the nineteenth century, a methodology, a technique and a critical apparatus have been developed for

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the discovery and testing of historical facts. The question arises, "What is a historical fact?" The answer is that it is, at its best, what the historian thinks of what some one else thinks he saw or said or did or heard. At its worst it is a paltry third or fourth-hand judgment. Psychology will have to develop much further before it can be known what relation something which has passed through the central neural processes of at least two men has to any objective reality. Still, such "facts" are at their simplest fairly clear-cut. The more they deal with complex situations, with motives, causes, effects, changes or connections, the more nebulous they become. But that is not all, for the very simplest and clearest historical fact, when isolated, has little meaning. It has to be tied to other facts to bring out its importance. When, however, it comes to a question of selecting, relating and ordering facts, history becomes essentially subjective. In short, the relation between any page of history and some objective reality which once existed is tenuous. The meaning and significance of that page are in large part, at least, the results of subjective processes of the historian's mind. With all the will to objectivity in the world, with all the honesty that can be conceived, with all the desire to tell things exactly as they happened, the historian cannot produce work which has at the same time significance and a close relationship to something that objectively existed in the past.

It is into such a murky situation that the new principles emerging from the science of physics may possibly cast a few rays of light. A fresh point of view may enable the historian to look over or around some of the old obstacles. In the past, history has attempted to adopt and use entire theories from the physical sciences, with results only partially beneficial. Perhaps today more sophisticated historians might with profit take from physics a new approach to their material, a philosophy based on the new principles.

Relativity. If the historical fact, *in itself*, has little significance, it is merely in the same case as the physical fact which has not been related to some frame of reference. If a frame of reference can be discovered and the historical fact related

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to it, perhaps the fact will be clothed in a new meaning. That is just what historians have always tended to do, for it is a commonplace that every age writes its own history according to its own beliefs and ideas. From the beginning of the Christian era well into the seventeenth century, from Orosius to Cotton Mather, historians took their material and related it to their theories of a divine order, of the workings of God upon man, of man's search for eternal salvation. So related, facts were significant, and if an earthquake became a judgment of God, still the history as a whole had a meaning. In the eighteenth century historians related their facts to theories as to the rational order of nature, natural laws, the rights of man or the like. In the nineteenth century they gave their facts meaning by tying them to nationalist, democratic, socialist or evolutionary theories.

Today either historians give their facts significance by using explicitly one of the older theories, as Spengler has used and strained the biologic analogy; or other and perhaps newer theories are implicit in their work. They seek for objectivity, but they must select and order and interpret the facts. This they can do fairly and justly but they cannot do it without some theories in the light of which they may select and order and interpret. What is the social order and economic history of the present but history written under the influence of theories as to the paramount importance of the evolution of social and economic institutions and folkways? If the modern social historian could present his arguments to the Venerable Bede, that worthy might well shrug his shoulders and reply, "To me these things that you call social and economic are all very well, but I wish to see how it was that God ordained the conversion of the British Isles."

Historical facts, then, gain their meaning when by order, selection and interpretation they are related to a frame of reference. This frame of reference is a theory of, or a way of looking at history, explicit or implicit, old or new. Without relation to some theory the fact is an isolated entity of dubious validity and little meaning. Without some theory the historian cannot, from the immense mass of historical facts,

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select and order his material, or interpret what he has chosen and arranged.

Indeterminism. Most historians would readily admit that chance plays a part in history. They like to speculate as to what would happen if Mary Tudor had borne a son, or if Mary of Modena had failed to bear one, or as to what course events would have taken if a storm had not destroyed the Armada, or Grouchy had obeyed his orders at Waterloo. They are interested, on occasion, in pointing out that Louis XIV owed his being to a rain and wind storm, and that a hurricane on St. Croix might well have ended the career of the youthful Alexander Hamilton. But most of them hold that the larger contours of history are shaped by deep-seated causes, inexorable processes, slowly evolving movements. They deny Carlyle's theory that men shape ages, and say rather that men reflect the currents of their times.

Yet since Hume all thinkers have been wary of the concept of causality in its less subtle forms, and have been prone to substitute the idea of sequence for that of cause. Physical science, itself, has for the most part substituted a goal of complete description for any attempt to explain the causes of phenomena. History, however, by its very nature needs the idea of cause to make it intelligible and comprehensible. The historian can only avoid writing of the "causes" of a war by adopting an evolutionary terminology and speaking of its "origins".

The fall of a tossed coin or of cast dice is taken as the epitome of chance, for in such a process the number of the factors determining the results is so vast, or their subtle relations so intricate, as to make it impossible accurately to determine them. The results can, therefore, be discussed only by the statistical laws of averages and chances. If the fall of a coin is chance-determined in the sense that the factors governing it are so complex that they cannot be known with accuracy, how much more so is any national occurrence involving the complicated interaction of millions of discrete events, of millions of conflicting psychological results based on unknown and unknowable internal processes, of millions of currents, cross currents

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and counter currents, social, political, economic, physical and psychical, of which not the tithe of a tithe of a tithe can ever come to the attention of a historian, much less be subjected to his analysis.

The remark is often heard, "We shall have to wait for the judgment of history on that", or "We are so close to this that we cannot write the history of it; we shall have to wait until time has given us the proper perspective." Such statements do not mean that contemporaries who share in events and know at least something of their psychological bases would not be the best ones to write the history of the era. Nor does it mean that the historian must wait hungrily until some government sees fit to disgorge a few incriminating documents, or until some statesman takes his pen in hand to write an unreliable apologia. They mean that the contemporary can see sequence but not causes. To write of causes the historian must wait until the material has shaken down into patterns, patterns not inherent in the events but arising gradually from the minds of men who in after years think about the events. While the historian waits for the formation of these patterns, the *Zeitgeist* dissolves, most of the material is lost and buried. But the historian must wait, for until the patterns, or theories of causation, are built up out of the scattered fragments of an era he cannot write intelligible history which shows events proceeding from cause to effect. Events are linked in time and space, but the causal connections between them are evolved from the subjective processes of men who think about them.

The very idea of causation is injected from without into an incoherent mass of chance-ordained events by the historian's processes of selection, ordering and interpretation. Causes in written history proceed not from any objective reality on which the writing is based, but from a subjective adherence by the historian to some theory or frame of reference to which he may relate his facts. Yet the historian should not flinch before the idea that the material with which he deals is in actuality chance-ordained, when it is becoming more apparent all the time that the basic processes of nature must be described in terms of chance and not of mechanical determinism.

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Discontinuity. The continuity of history has become almost a dogma with many historians. Wisely they have emphasized the artificiality of the conventional divisions of their subject matter. They have pointed out that seeming breaks in history are more apparent than real; that growth and decay and change are gradual; that major movements pursue their courses despite minor counter currents. But what does this valuable concept of continuity mean and how has it been attained?

The continuity that smoothes the pages of the historiographer comes not from the facts of history in themselves, for they are in the raw discrete, accidental, jumbled and discontinuous. In its cruder forms it comes rather from an analogy with the flow of a river, which in actuality is discrete and discontinuous, or from the flow of time, which is a purely relative phenomenon. Or again mere distance lends a certain appearance of continuity to discontinuous events, much as the separate pictures of a film can be fused into steady motion for the eye that watches the screen.

But, it may be objected, continuity in history merely means that events do not occur isolated and one by one; they are all connected with other events. Yet is there anything inherent in such connections which might give rise to the idea of continuity? That there are several possible kinds of connection is obvious. In the first place there is that of contiguity in time or space. But the fact that event A happens near, or immediately before or immediately after event B does not establish any connection between A and B such as to give rise to an idea of continuity. In the second place there is the possibility of a cause-and-result connection. A may be the cause or a cause of B. B may be the result or a result of A. But as philosophy since Hume has recognized, the idea of cause when analyzed resolves itself into mere contiguity and regularity of occurrence. In careful thought cause supplies no basis for a concept of continuity. In the third place there is the possibility of a genetic connection. A may grow into B, or decay into B, as the seed grows into the plant or the plant decays into humus. But genetic connection obviously

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springs from an organic analogy which likens the facts of history to episodes in the life of plants or animals, or from an evolutionary hypothesis which sees the events of history evolving as does a species. Interestingly enough, the evolution of a species is in itself discontinuous, proceeding by unexplained and seemingly unconnected leaps and jerks.

Apparently, then, the idea of the continuity of history does not arise from any real continuity inherent in the events of history, but rather from the injection into history of some analogy or theory subjectively adopted by the historian. Perhaps it would be wise to take a concrete example. The growth of capitalism or the capitalist system as it is today looks in the perspective of history like an evolution from one economic system to another. The seeds of capitalism seem to have been planted in early stages of European history, to have grown and flowered, withered and bloomed again, but ever to have worked despite all setbacks toward the system as we have it now. But at any point in that evolution a cross-section of the economic life of the Western world would have been composed of a maze of discordant and discrete events, apparently based on motives utterly unrelated to any capitalist evolution and leading no one could have told whither. Taking the system as it is today and looking backward, those discrete events in the past seem to shape themselves into a pattern of growth, sometimes almost of directed growth, as remarkable as the evolution of the eye or brain. Yet the pattern was not in the events at the time, it comes from the mind of the man who is looking back on history, because he is looking back and seeking to understand. Today events seem hard to interpret, difficult to relate, discrete, conflicting. The historian in 2100 may write of the early twentieth century as the era when the institutions of his day, having already taken shape, were growing and evolving rapidly toward their destined ends. In seeking to understand he will have impressed his pattern on unpatterned events and read into them a continuity of growth that was not there.

Still, the continuity of history is a valuable and necessary idea. That it proceeds from the minds of the writers of his-

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tory and not from the essence of history itself makes it none the less worth while. It is obtained by the historiographer through an adherence, explicit or implicit, to some theory of flow, or cause, or more usually of growth or evolution, whether he holds to a hypothesis of progress or deals in biologic analogies or cleaves to some Hegelian concept of thesis, antithesis and synthesis. The important thing is that the concept of the continuity of history is injected from the outside, like the idea of causality, by relating the facts of history to some theory or frame of reference by which the historian can select, order and interpret his facts so that the subjective continuity which he posits may be made manifest on the written page.

If, then, the significance of historical facts—and the same reasoning might be applied to the data of the other social sciences—together with their causal connections and their continuity proceed from their being related to some frame of reference, which is to say some implicit or explicit theory, the position of a theory in history becomes quite different. In the past theories have been tested by the supposedly empirical method of referring them to the "facts of history", that is, by referring them to rather misty entities which take on meaning, continuity and connection only in the light of the theories themselves. If it should happen that the new point of view based on hints from the recent work in the physical sciences should come to be adopted, the theories of history would be placed consciously in a respectable and stable position. No longer would they cringe and cower like handmaidens before the queenly "facts". For they would be tested not by the facts, but by pragmatic criteria as to whether they served their purpose of giving in abundance to the facts of history significance, connection and continuity, as to whether they became the foci of broad syntheses which tended from a practical and from a pedagogic point of view to make history intelligible and valuable, and finally as to whether they conformed to similar theories in other fields of knowledge.

Practically, the adoption of such an attitude toward their material would mean that thinkers in history would in part turn their attention from delving after facts to an effort to

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build up theories and philosophies. As the work progressed theories would come and go and change, but gradually there might arise magnificent beacons in whose light human history would glow with renewed beauty, enhanced significance, close-knit interconnection and intelligible causality.

In the other social sciences the new point of view might have even more far-reaching results. Today economists, sociologists, political scientists and psychologists are discouraged by the stubbornness of the brute facts of the *status quo*. If, however, they should come to hold that in themselves these facts were of little significance, unconnected, chance-ordained, and not the component parts of an iron-bound reality which must be accepted; if, further, they should decide that in the present state of things there were no inexorable trends bound to work themselves out for weal or woe, but that such trends were read into the facts by those who studied them; if, finally, they should come to believe that their theories were the prime essentials in any attempt to deal with the facts of the present, then they might take their theories and with them strive to mold the unconnected, chance-ordained realities of today into a better and a man-determined future.

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THE SOUTHERN NEGRO AND THE AMERICAN LABOR SUPPLY

THE movement of the southern Negro to our great urban centers has added a new element to the labor force of American industry. For both capital and labor, this development has an importance far beyond that which the numerical strength of the present or potential body of colored industrial laborers would indicate. It has meant not only a fresh supply of workers at a time of restricted foreign immigration, but also a racial cleavage in the ranks of labor. The introduction of racial antagonism into the industrial field raises a serious obstruction in the path toward labor solidarity, and by the same token renders less formidable the "labor troubles" of the industrialists. In view of the significance of the Negro's rôle in the industrial labor supply, it is of interest to discover his future contribution to the industrial labor force. How far will Negro migration from the South tend to swell the ranks of urban labor in the future? It is only through a study of the causes of migration in the past that a clue may be had as to the future rôle which the Negro is likely to play in the industrial life of the country.

Influences usually cited as causing the movement of Negroes fall into three categories—first, social conditions, including discrimination in and out of court, poor educational facilities, and insecurity of life and limb; second, the economic pressure exerted by unsatisfactory returns from cotton raising in the South; and third, the economic pull of northern industrial centers.

The evidence available indicates that social causes have played a relatively minor rôle in Negro migration. The influence of mob violence, one important element in the social factor, has been studied by Doctor C. S. Johnson,[1] through a

[1] C. S. Johnson, "How Much is the Migration a Flight from Persecution?", *Opportunity*, vol. I, pp. 272-4, September, 1923.

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comparison of the number of lynchings occurring in several counties, over a term of years, with the migration of Negroes from these counties. According to this study, there was no connection between colored migration and insecurity of life.[1]

The general history of Negro migration also tends to minimize the importance of the social factor. Although pressure of social conditions has remained relatively unchanged from year to year, the major movements have been sharply confined to periods[2] in which economic conditions were particularly favorable to migration. Moreover, the direction of the major movements, first to the newer cotton lands of the Southwest, and later to the North, reflects the force of economic pressure, the earlier southwestern movements being quite opposite in direction from those which "social" motivation would have produced. Neither of these findings, as to direction or timing, however, justifies us in rejecting completely the social factor as a causal influence on migration. While the direction of the earlier movements seems to have reflected economic rather than social forces, this fact merely shows not that the latter were inoperative but that the economic factor was much more powerful. As to the timing of the major movements, two points may be raised. First, though the great migrations have resulted from economic pressure, the constant trickling of colored people to the North may arise from other motivation, including the social. The second point is that even if a thorough investigation revealed the fact that there was a complete stoppage of movement when economic conditions were unfavorable, the social factor could still not be ruled out. For the question of its causal importance could be settled only if we knew how much migration would occur in times of economic stimulus in the total absence of the social pressure. For example, the appeals of labor agents may be successful in a

[1] It is questionable, however, how far lynchings are a good index of the feeling of insecurity, in view of the prevalence of potential lynchings at least in the mind of the Negro himself.

[2] See Dr. Johnson's interesting comparison of Negro movement with Jerome's findings with respect to international migrations. C. S. Johnson, "Some Economic Aspects of Negro Migration", *Opportunity*, vol. V, pp. 297-9, October, 1927.

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large number of cases because they are reinforced by "social" discontent, even though without these appeals no movement would occur.

The social factor, then, may be a contributing cause, merely reinforcing the economic influences, or it may even be an independent force, the effects of which are hidden from us because of our lack of knowledge concerning the less spectacular movements of Negroes, and because of its relative uniformity throughout the Cotton Belt, which makes a comparison of regions (such as that made in the lynching study) of little use in the attempt to disclose its operation. Whatever the effect of the social factor, its relative constancy in the past, and the probability of little change in the near future, permit us to take for granted its stable (and probably minor) effects in discussing the question of future Negro migration.

For purposes of prognostication, however, it is necessary to determine as fully as possible the causal importance of the two economic factors in Negro migration—the vicissitudes of southern agriculture and the demand for industrial labor. Was the call of industry sufficiently potent to draw a supply of laborers from the cotton fields regardless of the prosperity of southern agriculture? Did the unfavorable agricultural conditions in the Cotton Belt force the Negro to move away whether or not industry needed him? Were the industrial and agricultural factors both important influences in Negro migration?

A detailed examination of historical material bearing upon the movement of the colored population and upon changes in the agricultural and industrial factors throws light on these questions. For such a study the period 1919-1924 is particularly well suited. To begin with, a very large movement of the colored population occurred within the period.[1] Further-

[1] The present paper is limited to a study of the post-War period, because the War migration (the first in which the demand for industrial labor played an important rôle) occurred under such unusual circumstances that it is not likely to furnish an important clue to future peace-time developments. The study ends with the year 1924 because there has been no great demand for colored labor on the part of industry since that time.

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more, notable changes took place in both the industrial and agricultural factors. The demand for industrial labor fluctuated widely; agricultural prosperity in the South showed marked variations from season to season, and differed greatly among the several regions of the Cotton Belt. These sharp differences enable us to trace more easily the effects of the two economic factors in migration.

The material available for studying the movement of the Negro during the period 1919-1924 is found in publications of the Federal Reserve System. This information consists both of references to migration as such, and of reports on the abundance or scarcity of labor in the Cotton Belt. These latter, when interpreted in the light of changes in the demand for labor and with due regard to other elements in the labor supply, indicate the principal shifts in the Negro population even when direct references to these are lacking.

According to this information, the year 1919 was apparently one of relative quiescence in Negro migration, in contrast to the period of feverish movement during the Great War. Early in the year the labor scarcity in the Cotton Belt was somewhat relieved,[1] but this relative abundance of workers arose not from a return movement into rural territory, but from a decreased demand for farm labor and the demobilization of soldiers. Possibly some migration away from the farms occurred later in the year, for a slight tightening of the labor market is reported after July.[2] Early in 1920 this scarcity of labor became more stringent. Bulletins from all parts of the Belt expressed much concern over the serious shortage of farm labor. "Available farm labor is so scarce as to make extensive agricultural operations impractical and many large farms are being cut up and sold." The vigorous nature of complaints as to labor scarcity in early 1920 should not necessarily be interpreted in terms of wholesale migration from the cotton fields. As the amount of cotton raised in 1920 was larger than that in the previous year, the increased need for workers might

[1] *Monthly Review*, Richmond, March, 1919.

[2] *Monthly Review*, Atlanta, July, 1919.

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have caused a labor scarcity even though the supply did not diminish. But that some movement of the Negro did occur is indicated by the general tenor of labor supply reports from various cotton districts and by specific reference to such movements. "High prices paid in the city industries do continue to attract laborers from the country".[1] "The move from the farms to the city continues. . . ." [2]

Later in 1920 the labor supply grew more abundant, becoming very plentiful during the year 1921. In May, 1921, "an unusually large surplus of farm labor is reported from rural districts" in the Southwest,[3] and similar statements come from other parts of the Belt. The explanation for this abundance of labor is found in two circumstances. The first is a considerable reduction in demand for farm labor in 1921, caused by a curtailment of acreage planted, and by a diminished use of hired help in the cultivation of cotton. The "growing tendency of farmers to cultivate only such acreages as they are able to take care of without hired help" was common in the cotton region in 1921 and 1922. The second circumstance explaining the abundance of farm labor is found in an actual return of Negro workers from the North. The *Monthly Review* of the Richmond District for February reports a favorable farm labor situation, and explains it by a "back-to-the-farm movement". The early part of 1922 was also characterized by a surplus of farm labor.[4] The farmers, short of funds, continued to use as few hired hands as possible, especially in the Atlanta District.

Conditions changed radically, however, at the end of 1922, at which time a northward exodus of the Negro began from many sections of the Cotton Belt. Early in 1923, this "drain of workers to the industrial centers" [5] resulted in a shortage

[1] *Monthly Review*, Atlanta, February, 1920.

[2] *Monthly Review*, Richmond, April, 1920.

[3] *Monthly Review*, Dallas, May, 1921.

[4] Evidences of this are found in the estimates of supply and demand for labor, made by the Department of Agriculture and reported in the *Monthly Review*, Atlanta, for April.

[5] *Monthly Review*, St. Louis, April, 1923.

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of labor, throughout the Belt. The movement away from the cotton farms gained momentum, as the year wore on, reaching such proportions by the middle of the summer as to become an object of investigation by the United States Department of Agriculture and the Department of Labor. According to the estimates made by the latter, nearly a half a million of Negroes migrated. By the fall of 1923, however, "the migration of negroes to the Northern and Eastern centers [appeared] to be slowing down materially and some reports [indicated] that some negroes who went North several months ago [were] returning to the South."[1] The same situation prevailed during 1924. Reports of a more ample supply of labor during the entire season of 1924 indicated at least a partial return of farm laborers from towns and cities of the South and perhaps from Northern industrial centers as well.

A definite time pattern, then, can be noted in the migration of the Negro during the period 1919-1924. The first half of the period was characterized by two movements, a slight northward migration in the latter part of 1919 and early 1920, and a minor return movement from late 1920 to the early part of 1922. The second half of the period witnessed a spectacular northward migration of the Negro, lasting from late 1922 to the fall of 1923. Then followed a period of comparative quiescence with possibly a slight return movement in 1924.

What changes occurred in the agricultural prosperity of the Cotton Belt in the period during which these movements of the Negro population were taking place? An adequate picture of these changes may be had by tracing the fluctuations in the price of cotton and by studying certain circumstances affecting the cost of cotton production.

The price of cotton showed great variations during our period. In the middle of 1919 the price, which had been relatively low, rose sharply, soaring to 37½ cents in April, 1920. This violent rise was followed by a precipitous decline in the latter part of 1920. The price fell below 10 cents by March, 1921, at which level it remained until July. Late in the year, the price of cotton attained a relatively high level

[1] *Monthly Review*, Richmond, September, 1923.

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which was maintained for the rest of the period except for a slight drop in early 1924.

The effects of fluctuation in cotton prices varied greatly throughout the Cotton Belt because of the wide differences both in the methods of cultivation and in cost of cotton production. The sharp decline of cotton prices in 1920, bringing disaster throughout the Cotton Belt, was especially felt in the southeastern region, where fertilizers are extensively used. Such a region is more sensitive to price decline because the money received for the cotton in one year reduces the amount of fertilizer which may be purchased and hence lessens the yield of the next cotton crop.

Among the chief circumstances affecting the cost of producing cotton, the most important for the period studied was the damage caused by the boll weevil, important for our purpose, not only because of the resulting reduction of yield, but also because of the striking variations in the severity of weevil damage during the period in different sections of the Cotton Belt. Information concerning this factor in agricultural conditions consists of figures showing the reduction from "normal" cotton yields attributable to the boll weevil.[1] While these estimates are based on the elusive concept of normal yield, the large variations in their magnitude reflect the differential boll weevil conditions in the several states. According to these figures, the weevil damage increased alarmingly throughout the area of infestation[2] during the first two years of the period. In 1922, geographical differentiation with respect to boll weevil damage appeared. Whereas most of the states showed a decrease, in Georgia a high level of destruction already reached was maintained, and in South Carolina the damage increased greatly. In 1923, South Carolina and Georgia showed decreases, while Alabama and Mississippi suffered some rise in boll weevil damage. A marked improvement in conditions throughout the Belt characterized the year 1924.

[1] *Year Book*, Department of Agriculture, 1925, p. 957.

[2] North Carolina and Tennessee were first infested in 1921.

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Non-quantitative reports of the Federal Reserve Board tell the same story with respect to geographical differences. No regional variations in boll weevil damage during the years from 1919 through 1921 are indicated. In 1922, however, the deplorable cotton conditions in Georgia and South Carolina are stressed. "Deterioration in the condition of the crop is very general throughout the cotton growing sections, but the condition is lowest in Georgia and South Carolina." [1]

Two further kinds of information throwing light on the condition of cotton growing may be used to check the conclusions just drawn. The first of these consists of the average yield of cotton per acre, which reflects physical conditions of cotton production such as the damage of the boll weevil. The second type of data consists of the changes in the total number of acres harvested. These reflect the condition of cotton raising as a whole, a profitable season being indicated by increases in acreage the following year, and a bad season by decreases. The analysis of cotton yields (in spite of the influence of other conditions, such as the weather and the amount of fertilizer used) reveals the same general trend found in studying the boll weevil damage. The yearly estimates of cotton acreage harvested also disclose a similar pattern. Widespread though moderate increases were noted from 1919 to 1920. While general reduction in acreage harvested occurred from 1920 to 1921, in 1922 a considerable increase in acreage harvested is noted in most of the states in the Belt. In Georgia and South Carolina, however, considerable further reductions occurred, this southeastern section maintaining a low level in 1923 and 1924 as well.

According to the evidence just presented, the fortunes of cotton culture during the years 1919 to 1924 may be summarized as follows. In 1919 and early 1920, the cotton farmer was relatively prosperous, for high prices were to a large degree counteracting the injurious effects of boll weevil damage. In late 1920 and throughout the whole of 1921, extremely low prices, combined with great activity on the part

[1] *Federal Reserve Bulletin*, November, 1922.

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of the weevil, brought severe depression to the entire Cotton Belt. Thereafter, good prices and lessening weevil damage brought a fair degree of prosperity to most parts of the South. In the southeastern states of Georgia and South Carolina, however, no similar recovery took place during the period studied, because of the severity of weevil damage and the continued ill effects of low cotton prices of 1921.

The second economic cause of Negro migration—the demand for industrial labor—may be traced more easily than the agricultural factor, because information concerning the degree of industrial activity in the country during the period from 1919 to 1924 has already been gathered and summarized by Doctor Thorp.[1] According to his findings, the following phases of industrial activity can be distinguished during the period under discussion: the post-War boom of 1919 and early 1920; the crash and depression of late 1920 and 1921; the recovery and prosperity of 1922 and early 1923; and the mild industrial depression in 1923 and most of 1924. A clear picture of the fluctuation in the demand for industrial labor may be found in these brief characterizations of general business conditions. Labor demand was strong during the great industrial activity in 1919-1920 and again during that of 1922-23. Of these two periods of great labor demand, the second was more important for Negro labor since during the first period the demobilization of soldiers and revival of European immigration provided the labor market with an ample supply of workers. During the intervening period of depression, labor demand dropped and industry was expelling workers. This expulsive force was much stronger during the period of severe unemployment of 1920-21 than in the mild depression of 1923-24.

A comparison of the time pattern in the Negro migration with changes in the agricultural conditions and in industrial labor demand reveals clearly the causal relationships among these phenomena. Such a comparison will be facilitated by a tabular presentation of our findings.

[1] W. L. Thorp, *Business Annals*, pp. 143-45.

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Migration	*Agricultural Conditions*	*Industrial Labor Demand*
Late 1919 and early 1920 Minor northward movement	1919 and early 1920 Relative prosperity	1919 and early 1920 Some demand for Negro labor
Late 1920 and 1921 Slight return movement	Late 1920 and 1921 Widespread and serious depression	Late 1920 to early 1922 Severe unemployment
Late 1922 and first half 1923 Pronounced northward migration	1922, 1923 and 1924 Fair degree of prosperity except in Southeast	Late 1922 and early 1923 Strong demand for Negro labor
Late 1923 and 1924 Slight return movement		Late 1923 to late 1924 Mild unemployment

In the light of these historical sequences, what rôle did the industrial and agricultural factors play in the movement of the Negro? Before the summer of 1922, there were two minor movements of the Negro population, one northward in 1919 and early 1920 and the other back to the South in late 1920 and during 1921. Did they arise from agricultural causes or in response to the state of industry? As can be seen from the table, agriculture was relatively prosperous when the Negro was moving away from the farms and very depressed when he was returning to the South. Thus the agricultural factor apparently was not important in these movements. The Negro was migrating rather in accordance with industrial conditions, moving northward when industry beckoned and returning when urban unemployment prevailed. Taking the Cotton Belt as a whole, the same conclusion seems to hold for the migration occurring in the rest of the period. During that time, cotton raising enjoyed a fairly consistent period of prosperity. But the industrial demand for Negro labor was very strong in 1922 and 1923 and the Negro responded in a spectacular exodus. When a condition of mild unemployment obtained during the late 1923 and 1924 the Negro turned southward again, at least in small numbers. The industrial factor, then, seems to be the dominant force in these as well as in the previous movements of the Negro. In the southeastern section of the Cotton Belt, however, the expulsive force of the agricultural factor played an important rôle along with

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the attraction of northern industry. In this section the period immediately preceding the migration of 1922-23 was one of continued agricultural disaster. The effect of the sharp fall in prices in 1920 and 1921 was still being felt. Moreover, the weevil was a recent invader, not only causing greater damage than elsewhere, but by its very newness creating a condition of acute panic among the cotton farmers. The potency of these conditions in causing migration is recognized in the Federal Reserve reports. "... in South Carolina many Negroes have left the state because of stern necessity. In the sections of the state which have felt the full ravages of the boll weevil there are hundreds of Negroes who have found it really difficult to get sufficient money or credit to provide for the barest necessities of life. ..."[1] In the Southeast, then, both the "push" of agricultural disorganization and the "pull" of industry were important influences in the movement of the Negro.

Is the agricultural factor likely to reinforce the call of industry in the future? As has been seen, this factor was influential only in states where the boll weevil was a recent invader. The explanation of this finding lies in the fact that the disintegrating force of the boll weevil was particularly strong during the first few years after its arrival. Eventually "the farmers become accustomed to the weevil injury, learn to distinguish between loss due to the weevil and that attributable to other causes, and are able to reduce weevil injury somewhat by proper farm practices".[2] Because of this progressive diminution in the importance of the weevil with the passage of time, we may conclude that this element in the agricultural factor has lost much of its force in view of the fact that the boll weevil has long since covered the Cotton Belt. Other agricultural conditions, however, may in the future reinforce the demand for industrial labor as well as the weevil has done in the past. The returns received by the cotton grower at the present level of cotton prices are notoriously inadequate, and the outlook in the market is none too bright. Moreover, a

[1] *Monthly Review*, Richmond, June, 1923.

[2] *Farm Bulletin* no. 1329, U. S. Department of Agriculture, p. 4.

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recovery in cotton prices which would compensate the growers in the newer low-cost areas of western Texas and Oklahoma might still fail to bring prosperity to the old, eastern Belt, in which the Negro chiefly resides. The price factor in migration may become of great importance in the future, particularly if low levels are sustained over a long period.

Another probable development in the cotton growing industry may bring with it an economic pressure even more severe than inadequate prices. The imminent introduction of a mechanical cotton picker may result in the virtual elimination of the traditional tenant farmer, as well as in material reduction in the use of wage labor. Just as at the present time the new western cotton areas (in which the Negro plays very little part) enjoy a competitive advantage in respect to costs over the soil-exhausted regions of the East, so in the future their level land, better suited to the use of machinery, is likely to become the chief location of mechanized cotton farming. With low prices operating differentially against the Negro, and mechanization exhibiting the same racial bias, the agricultural factor may become a powerful expulsive force in the movement of the Negro farmer.

The pull of industry, however, is a sufficiently strong influence in Negro migration to draw colored labor from cotton fields without the aid of agricultural disorganization. Though the demand for Negro labor on the part of industry has not been very powerful in recent years, the eventual recovery and expansion in the industrial activity of the country, together with the continuing policy of restricted immigration, are likely to force the industrialist to turn again to the South in search of workers. He will find in the southern Negroes an ample labor reserve responsive to his appeal.

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THE IMPEACHMENT OF JAMES E. FERGUSON

AFTER the abortive attempt to remove McGaughey in 1893, no use was made of the impeachment remedy in Texas until 1917, when, after bolstering up its collective courage, the house of representatives impeached Governor James E. Ferguson. The five earlier Texas impeachments had attracted little attention among the rank and file of Texas citizenry, but when the governor was called to an official accounting, the people of the state, and of the whole Southwest, followed the course of events as attentively as if it had been a sensational homicide case. After all, prior to this time, but six American state governors had been officially impeached, and of these, five were Southern Reconstruction governors. From 1880 to 1917, only New York had employed the remedy against its gubernatorial incumbent.[1]

Elected to the governorship in 1914 in his first political campaign, and reëlected in 1916, Ferguson gave substance to the popular American illusion of the equality of opportunity, and proved, beyond reasonable doubt, that a man might make his mark in the world without the pampering and enervating influences of wealth and social position, if only he had the will to succeed. In every sense of the word, Ferguson was a self-made man. He was born in 1871, the son of a Methodist preacher. His early career in many respects resembles that of another American political enigma—William Hale Thompson. There is the same unrestrained romanticism, the same educational grist. After several years spent as a common laborer and as foreman of labor gangs, he decided, through some unaccountable clairvoyance, that the future in that line of work did not coincide with his personal aspirations. He sought out his Bow Tree, and, as a result of his meditations

[1] Governor Sulzer was impeached and removed in 1913. However, there seems to have been in Texas no record of the Sulzer proceedings, for no reliance was placed upon this case as an impeachment precedent by either the managers or the respondent. Likewise, no mention was made of the other gubernatorial impeachment cases.

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there, was immediately converted to the legal profession. Thereafter, he entered upon a career of banking and ranching, and by 1914, he had attained considerable success in these activities.[1]

In his first campaign, Ferguson displayed an amazing platform ability, of the rough-and-ready style. Like Roosevelt, he thought best in a crowd; and like Bryan, he radiated confidence. At last the common man had a champion, and one who promised fidelity to the cause; and, since he was a comparatively young man, there was reason to believe that the sneaks and mouthers of those absurd doctrines of inequality would be driven to silence or departure from the Texas Empire. There was a real enthusiasm for Ferguson during the campaign, though the prohibitionists could not quite reconcile his disregard for the wishes of the Divinity on the liquor question with his especially enthusiastic support of the other ten commandments. Still, he was a Democrat. That was primordial. And to all appearances, he gave every promise of implementing and restating the eternal verities of Jeffersonianism and Jefferson Davisism. The voice of the people was again the voice of God, in Texas, if nowhere else in these United States. After all, omniscience might be too much to expect of a young crusader, and so his immaturity on the liquor question was largely overlooked.

The final collapse of Ferguson resulted from his policy toward the state university. Being a self-made man, who had not experienced the benefits or damages of higher education, he naturally entertained some doubts as to its ultimate importance. The sixth grade of grammar school marked the peak of his scholastic attainment. Besides, there were certain general impressions that circulated through the back country, the so-called intellectual hinterland of the Empire, that the state university was creating and perpetuating an indefensible aristocratic class. Accepting the theory that the American people were pledged to education, Ferguson, true to his democratic philosophy, reasoned that it would be infinitely better to

[1] For autobiographical data, see *Proceedings Ferguson Impeachment*, pp. 491-494. See also Ralph W. Steen, *The Political Career of James E. Ferguson 1914-1917* (unpublished manuscript in the Archives of the University of Texas).

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expend state efforts and moneys in raising the general level than for the educational embellishment of a small per cent of the population. Ferguson also embraced another fundamental doctrine that confused the supporters of the university. That concerned the "political" position of the university in state administration and its accountability to the elected state executive.

The 1915 legislature passed the largest appropriation for the university that it had received up until that time, and Ferguson approved the bill. However, before the summer was over, he had become engaged in a controversy with Acting-President Battle over certain university practices in regard to expenditure. In April 1916 Doctor Vinson was elected president by the board of regents, but he was scarcely installed before Ferguson demanded the dismissal of six faculty members. As no steps were made to comply with this demand, the governor changed his tactics and sought to secure "coöperation" from the board of regents. For some inexplicable reason, other than that, in his own words, "they had skinned him from hell to breakfast," the removal of the six professors and a correction of the high and mighty conduct of the university authorities became matters of supreme importance to Ferguson. If he had only ignored this plain nonconformance to his personal or partisan whim, he would easily have escaped his ultimate political flagellation. It is, indeed, an unexplained phenomenon, this vanity of popular leaders! While warring vigorously against a distasteful but traditional authority, they set up about themselves a tyranny that shames the mere pretensions of legitimate monarchs. And as for this episode, the gubernatorial vanity had suffered a devastating insult, more noticeable to the governor than to anyone else.

No one charges Ferguson with political or personal cowardice, unless it be his inability to brook adverse criticism. On September 11, 1916, he asked for Regent Faber's resignation, which was refused, and thereupon he threatened to remove the regent if he did not dissociate himself from the "university political ring."[1] A written demand for the removal of the

[1] Hogg, W. C. (ed.), *His Own Words to Discover his Motives*, pp. 5-7.

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persona non grata professors was then presented to the regents by the governor. The regents provided an official investigation, which performed its intended function by exonerating the accused.[1] The governor had met with a new brand of politics, that more delicate and more subtle species found only upon university campuses. In comparison, the rougher methods of the grass-roots appeared like cut glass in a tray of diamonds.

During and after the 1916 campaign, certain disquieting rumors persisted that all was not well with the governor's private finances. Particularly alarming was the gossip that the liquor interests had contributed substantially to his campaign fund. Moreover, did Ferguson really intend to replace retiring university regents with rubber-stamp politicians? As a result of the persistency of these rumors, the legislature was far from calm when it convened for the 1917 session.

There may have been other reasons for this distemper. Legislative oligarchies throughout the Southwest country regard with disfavor attempts of state executives to exercise strong leadership. In his inaugural address, Ferguson plainly stated that he considered his reëlection a popular mandate to pursue his announced policy. His enemies referred to this declaration as the "speech from the throne". Soon thereafter, the governor presented nominations to the senate for the three regents whose terms were expiring.[2] Instead of confirming the appointments, the senate considered a resolution providing for an investigation of the three nominees.[3] On February 14, Senator Johnson (of Hall) introduced a resolution calling for an investigation of the charges against the governor.[4] After some political jockeying, featured by an address to the senate by Ferguson, the resolution was tabled by a vote of 19 to 12.[5] The position of the senate in an investigation of this nature was questioned by certain senators, and especially by supporters of the administration. If the charges were substanti-

[1] A complete transcript of these proceedings was published by the regents.

[2] *Senate Journal 1917* (reg. sess.), 194.

[3] *Ibid.*, 348-350.

[4] *Ibid.*, 455.

[5] *Ibid.*, 460.

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ated, they would constitute valid and reasonable grounds for impeachment; and, in that event, the investigation should be conducted by the lower house, as the senate would have to sit as a court if impeachment were voted. Without knowing it, the senate reversed a Texas impeachment precedent established in the McGaughey case, where the senate actually participated with the house, through a joint committee, in the initial investigation. Should even a senator be asked to serve both as grand juror and as a trial judge in a single specific case? By its decision, the upper chamber merely transferred the onus for an investigation to the anti-administration members of the lower house.

Three days later, charges were formally presented to the house, and an investigation was asked.[1] The governor was invited to address the house, which he did, and a motion to table the resolution was adopted by a vote of 104 to 31.[2] It marked a decisive victory for the governor, but his respite was brief, for on March 3 another investigation resolution was introduced. It charged the governor with having committed ten specific impeachable offenses. A signed statement by the president of the Temple State Bank, relating to the unsatisfactory financial account of the governor with that bank, was appended to the resolution as an exhibit.[3] The Ferguson leaders raised the point of order—did not the resolution contain the same charges as the previous one which had been defeated? Was it, therefore, not contrary to the rules of the house to entertain the motion to adopt? Even though the members had been of a different frame of mind, this was mere legislative horse-play, for investigatorial functions are not considered limited by the rules regulating legislative matters.[4] The point of order was overruled by a vote of 66 to 64. After adding one amendment and defeating several others, the house adopted

[1] *House Journal 1917* (reg. sess.), 672.

[2] *Ibid.*, 695.

[3] *House Journal 1917* (reg. sess.), 1015-1023.

[4] The courts have held that investigatorial functions are exercised under the constituent power of the legislative body; and, apropos, the limitations of the call will not act as an estoppel to investigations in a special session of the legislature. *Simpson v. Hill*, 128 Okla. 90.

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the resolution by 86 to 41.[1] On the presentation of the resolution, the governor was again invited to address the house, and he made effective use of this opportunity, but time for adjournment came before a vote could be had on the resolution, and its consideration was postponed until the following Monday. If the administration leaders had been able to force a vote immediately after the conclusion of his speech, the designs of his opponents might have again been thwarted.

A committee of nine members was appointed, and at its hearings, which began on March 7, twelve witnesses, including the governor, gave testimony. The hearings were concluded on the 13th, and a formal report of the committee was submitted to the house two days later.[2] The report declared that many of the allegations charged in the resolution were substantiated by the investigation, but that the facts and circumstances did not merit the "severe pains and penalties of impeachment."[3] The report was adopted without a division. The alacrity with which legislative bodies resort to *viva voce* votes represents one of the outstanding features of American impeachment investigation procedure. That bent will be satisfactorily explained only in frank confessions of politicians of the "twenty-minute-egg" stamp.

With the failure of the second resolution in the house, the scene shifted to the senate. That body had already, on February 27, refused to confirm the appointment of D. H. Lawrence to the board of regents.[4] Only five votes were cast in his favor. On March 17, the Dayton resolution was called up and adopted as a substitute for the Lattimore resolution, relating to the investigation of the nominees for the board of regents. The substitute declared: "the judgment of the Board of Regents on all matters considered by said board at said hearing were [*sic*], and of right ought to be regarded by each

[1] *House Journal 1917* (reg. sess.), 1032-1037.

[2] A complete transcript of the proceedings of this investigation has been published under the title, *Proceedings Investigation Committee on Charges against James E. Ferguson*, 548 pp.

[3] *Proceedings Investigation Committee*, 384-390; *House Journal 1917* reg. sess.), 1338-1342.

[4] *Senate Journal 1917* (reg. sess.), 737.

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Senator as res adjudicata."[1] With no apparent justification from the precedents and rules of constitutional law, the senate believed that the new regents should consider themselves bound by the Dayton resolution.[2] Two regents had been confirmed on March 19, and a third had received senatorial approval on the day following.[3] However, if such restrictions were to be considered valid and legitimate, the senate was attempting to do by means of the confirming power that which it denied to the governor, who, as chief executive, had some reason to believe that he could advise an administrative board. Yet, in final analysis, neither the governor nor the senate was, by law, empowered to interfere with the decisions of the board of regents. The whole question was resolved into a political squabble. Ferguson sought to remove the professors because they had opposed him in the campaign. It was a head-hunting motive, and the senate, by means of the Dayton resolution, sought to forestall him.

The first special session of 1917, which met immediately after the adjournment of the regular session, passed the university appropriation bill. It was handed to the governor, and the legislature adjourned.[4] The clever old legislative trick of cramming laws down the throats of chief executives! A governor can scarcely take the responsibility of vetoing the whole measure, but his only alternative, other than the convening of a special session, is signing. Moreover, the legislature was aware of the fact that Ferguson would shed no tears when the legislature adjourned. On May 27, the governor called a meeting of the regents for the next day. The regents obeyed the summons and were duly assembled in the gubernatorial chambers when the university student body favored the meeting with an impromptu visit. For some days, rumor had it that the governor would not approve the university bill in its entirety. Also, it was divined that he would revive his

[1] *Ibid.*, 585. Presumably Senator Dayton meant *res judicata.*

[2] Such is the contention of the interesting but prejudiced little pamphlet, *Ferguson's War on the University of Texas*, which was published as propaganda under the auspices of the university Ex-Students' Association.

[3] *Senate Journal 1917* (reg. sess.), 1359, 1572.

[4] Adjourned *sine die* on May 17, 1917.

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attempts to remove the undesirable faculty members. Concerning the student parade, which had a tremendous effect upon the governor's equanimity, Ferguson later said:

> . . . and I respected the Dayton resolution until the mob appeared before my window down here and with students shaking their fists at me and making all sorts of faces at me, and calling to me in loud and disrespectful terms to read the banners,[1] and with faculty members out in their automobiles just over from the student body, and with the statement from Dr. Vinson that he had dismissed the classes to enable the students to congregate for this purpose. . . . [2]

The visit of the students precipitately terminated the governor's seminar discussion on politically scientific methods for the governance of state universities, but the regents assembled that afternoon at the university, without the stimulating presence of their instructor, in order to determine the responsibility for the parade. The regents, after due deliberation, decided that the parade idea had germinated in the student body, that it represented a spontaneous outburst of juvenile irrationality, and that the faculty members had had no part or parcel in the acts of *lèse-majesté*.

The parade episode contributed less than nothing to a dissipation of the feeling between the governor and the university authorities. Ferguson still remembered the poignant and disrespectful news article that had appeared in the student newspaper; on the morning after the 1916 election, this paper had ostentatiously announced that a certain Negro had received a number of votes from the fourth ward, a constituency in which a large number of faculty members lived. "Several citizens of the University community," the account read, "took the trouble to scratch out the name of the gubernatorial candidate and write in that of the negro trusty." [3] Ferguson later remarked that "when it got to the place that the official communication of the University of Texas would publish that the

[1] The students carried large banners which, *inter alia*, stated that Texans were opposed to Kaiserism both at home and abroad.

[2] *Proceedings Ferguson Impeachment*, 543.

[3] *Daily Texan*, November 8, 1916.

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people at the University community was scratching out the democratic candidate and putting in a negro in place of him, then I thought disloyalty to the State Government had reached a very reprehensible degree indeed."[1] *L'état c'est moi!*

Now definitely at war with the university, Ferguson took the liberty of defining opposition to himself as treason against the state. This was, in fact, a defense mechanism, a common flaw in the armor of Whiggism, ancient or modern. Treason falls lightly from the lips of political iconoclasts, with little or no relation to the definition given it by learned jurists. In effect, it has a specifically personal application, and is meant to infer both ignorance and cowardice. And, in this case, the results of this rash policy were only to augment substantially the number of Texas Tories.

On May 31, announcement was made of the resignation of Butler and of the removal of Jones, both pro-university regents. The governor appointed one Mathis to replace Butler, and Tucker for Jones. On the afternoon of that day, the county attorney of Travis County obtained a restraining order preventing Tucker from assuming his duties on the board. Late that night, the same court, on the application of Lomax, enjoined the Ferguson members of the board of regents from removing him and President Vinson. Another pro-university regent resigned on the following day. On June 2, the governor vetoed the university appropriation bill. The situation was critical. The Ex-Students' Association began negotiations with the regents. What did Ferguson intend to do? Operate the university by means of deficiency warrants? The attorney-general advised that the veto was invalid, because the governor had neglected to veto the totals; the regents might allocate the whole sum as they desired.[2] Mass meetings were held in many localities, protesting against the governor's actions.[3]

[1] *Proceedings Ferguson Impeachment*, 551.

[2] *Attorney General Report 1916-1918*, 122-131.

[3] There exists a great volume of newspaper and other printed material upon these critical days of late May and early June, 1917. A splendid newspaper account is to be found in *The Dallas Morning News*; brief outlines are to be found in Hogg, *His Own Words to Discover his Motives*, and anon., *Ferguson's War on the University of Texas*.

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Lest the common people, his people, fall victims to pro-university propaganda, the governor took to the field in person. When faced with the problem of making a critical decision, Ferguson, true to his political philosophy, consulted the source of authority. Beginning in west Texas, he delivered several speeches that bristled with a self-righteousness born of the knowledge of work well done. His "swing around the circle" did not peter out, as did Johnson's and Wilson's; rather, he carried the fight to the "butterfly chasers", "day dreamers", "educated fools" and "two-bit thieves"—terms with which he characterized the university faculty. "It took a teacher in the University three years", declared the governor, "to learn that wool would not grow on an armadillo's back. . ." I doubt if there exists in the English language a more powerful diatribe against higher education than that which Ferguson delivered to the Texas democracy in this scintillating sortie. Marshaling his invective with an amazing effectiveness, mixing it with fine yokel humor, easily understandable to his masters, he, in the favorite phrase of the Southwest country, "poured it on" without stint or sympathy. At Kerrville, he stressed the disloyalty of the university. At Abilene, he damned the fraternity crowd and their snobbery, referring to those innocents as "little tin Jesuses with little tin wings." At Haskell, he laid about him quite merrily; he believed the students guilty of high treason against the governor of Texas. At Snyder, Sweetwater and Hamlin, he announced that he had decided to emulate Woodrow Wilson in abolishing fraternities. At Plainview, he exposed the infernal racket of university professors; they worked only fifteen hours a week and then had the temerity to ask for sabbatical leaves, with pay from the state; they spent their whole time teaching, on an average, no more than eight or nine students.

At Valley Mills, the governor climaxed his whole campaign. After remarking that the state spent over six hundred dollars annually for the education of every student enrolled in the university, he spoke his mind unequivocally upon the whole matter of higher education. The following extract will indicate the nature of his views.

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> Now, mind you, this is in addition to what hundreds of mothers and fathers are paying for tailor-made clothes, $10 bouquets, automobiles, silk stockings, golf balls and high balls, poker chips, fraternity dues, frat pins, and mandolins and a hundred other foolish and extravagant things which the rich crowd says is necessary to carry on this Belshazzar revel down at the State University. The taxpayers can see that it is too much. The struggling parent can see that it is too much, and again I say that not only are too many people going hog wild over higher education, but that some people have become plain damn fools over the idea that we must have an army of educated fools to run the government. . . . Don't you think that's too much to pay for the privilege of having a boy come home knowing how to play the mandolin and with diseased kidneys?[1]

On July 3, the circuit court set aside the temporary restraining order that it had granted to Lomax a month earlier. While deprecatory of the whole muddled situation, Judge Graves said: "If the statutory injunction under which the board [regents] now rests and the solemn obligation assumed by its members upon subscribing to the oath of office do not operate as a sufficient restraint, then the court injunction would be futile or its tendency subversive of the very freedom sought to be preserved in the board."[2] The other court order, restraining Tucker from acting as a regent, still held, and the governor later appointed Ward, one of his attorneys, to replace Tucker. The court thereupon issued an order restraining Ward from assuming the duties of a regent. The courts were having their innings. On the same day, July 12, another court restrained Fly, one of the Ferguson regents, from acting as a member of the board, on the ground that his acceptance of a Federal appointment as physician to a military draft board rendered him ineligible to serve as regent by the rule of constitutional incompatibility of offices. On July 13, the regents met and dismissed the six faculty members. And one of the regents announced that President Vinson would be removed in October. However, before October came Texas had written an important chapter in its constitutional history.

[1] *Proceedings Ferguson Impeachment*, 269.

[2] Quoted in *Ferguson's War on the University of Texas*, 40.

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Even in competition with World War news, the Ferguson-university issue maintained its place on the front pages of newspapers and in the leading editorials. Hope of compromise had long since been abandoned. The governor retired to his Bosque County ranch for a vacation. Judge Etheridge, well known in state judicial affairs, accentuated the enthusiasm of the anti-Fergusonites when he declared that, in his opinion, the legislature could lawfully convene itself into special session for impeachment purposes. Concerning this, the *Dallas Morning News* editorially remarked: "Whatever may be thought of this conclusion as a legal proposition, there can be no doubt as to its soundness as a political one." [1] On July 21, the governor unexpectedly turned up in Austin and voluntarily appeared before the Travis County grand jury. Texas rangers accompanied him to the court house. Two days later, Speaker Fuller issued a call for convening the house of representatives on August 1 to consider the matter of impeachment.[2] On the following day, sixty-five members signified their intention of answering the call. The governor branded the proposed assembly as unconstitutional. On July 26, he addressed a large convocation of farmers in Austin, and was greeted with a chaotic commingling of cheers and hisses. Rangers were conspicuously placed at strategic positions in the hall. On the following day, the papers published the signed dicta of Judge Williams [3] and five other eminent Texas jurists and attorneys on the right of the legislature to convene itself.[4] Demonstrating an enthusiasm for implied-power reasoning that would have shocked John Marshall, these students of Texas jurisprudence declared that:

> Not only is there no express inhibition against the exercise of those powers [impeachment] when the Legislature, as such, is not in session, but there is no just reason why there should be. The power of impeachment is intended to be complete and broad as any necessity that may exist for its exercise. It is not made

[1] July 19, 1917.

[2] *The Dallas Morning News*, July 24, 1917.

[3] Judge Williams was formerly a member of the Texas Supreme Court.

[4] *The Dallas Morning News*, July 27, 1917.

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dependent upon other provisions of the Constitution putting limitations upon the power of legislation, for to have made it so would have been to defeat its purpose.

This reasoning may have been better politics than law, but there still persists in Texas (1933) a general belief in its validity. Indeed, the third called session of the thirty-fifth legislature (1917) enacted measures providing ways and means for such convocation.[1] However, court decisions in other states have reflected an entirely different view. There are numerous decisions which declare that impeachment, being non-legislative in character, may not be limited by the usual rules and provisions relating to legislative procedure; but it takes an especially garbled reasoning, except in case a constitutional amendment gave such power, to presume that impeachment may be voted in any other than a legislative body. And how can a legislative body, the house of representatives to be specific, be lawfully convened except according to the provisions of the state constitution? Does any meeting of the elected members of the legislature, or even of each house separately, constitute a lawful session of the legislature? If a meeting were convened, attended only by duly elected legislators, would it constitute a lawful legislative session? Could legislators elected in November convene prior to the constitutionally specified time for meeting? If so, under what authority could the oath of office be offered or taken? The answer to these queries is indubitably in the negative, for until the cloak of legal authority is thrown over the meeting, the assembly would have no more of the lawful essence of a legislative body than would any other assembly of private citizens.[2] The legislator is not, by any means, to be considered as perpetually existent in his public character. The age, which Disraeli so graphically described, in which election to the House of Commons was the surest way of opening prison doors for the felon, has long since passed. The legis-

[1] Frank M. Stewart, "Impeachment in Texas," *American Political Science Review*, XXIV (August, 1930), 652-658; *Texas Attorney General Report 1916-1918*, 427-439; *Ferguson v. Maddox*, 114 Tex. 85 (1924); *Laws of the Thirty-Fifth Legislature*, third called sess. (1917), 102-106.

[2] *Simpson v. Hill*, 128 Okla. 90, 236 Pac. 384.

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lator is, except when the legislature is in lawful session, no more than a private citizen; and no private citizen, despite the authority that may be vested in him under specific conditions, may assume authority, during the absence of those conditions, upon a mere potentiality. The constitution is brutally specific in its provisions upon the point. According to legal precedent, those enumerated provisions should be viewed as excluding all other possible means of convening the legislature. No one of the Texas proponents of the right of the legislature to convene itself has admitted the fact that the sole power to impeach lies in the house of representatives. It is there lodged, not as a legislative but as a judicial power; but no one will deny that the house of representatives is a legislative body, is understood as a legislative body, and was so intended by the framers of the constitution. How, then, can such house of representatives come into lawful being unless it be convened according to the plainly specified provisions of the constitution?

The whole controversy during these stressful days of July 1917 was viewed from a political angle, but real motives were cloaked under rationalizations. Unless some drastic but effective means were provided, Ferguson would continue in office for eighteen months and, considering the policy which he was pursuing, higher education was threatened with grave injury if not immediate disaster. However, the rationalizations served their purpose, for before the attempted meeting of the legislature on August 1, the governor issued a call for it to meet in special session upon that date. This is probably the only legislature in the United States that ever met pursuant to two calls. Like Governor Walton of Oklahoma, Ferguson chose politics rather than revolution. Both lost. What might have happened if Ferguson had held to his position and prevented the assembly, as did Governor Johnston of Oklahoma, is only a matter for conjecture, and another of those interesting "ifs" of history. In explaining his call, Ferguson proudly proclaimed that he did not fear impeachment proceedings and that he would never, so long as he was a citizen of Texas, "expect to run away or to use any technical plea" to prevent an investigation of his official acts.[1]

[1] *Proceedings Ferguson Impeachment*, 530, 531.

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Pursuant to both calls, the legislature convened on August 1. The house waited only until after the benediction of the Almighty had been petitioned for its labors and until the official message from the governor had been presented, before instituting impeachment proceedings. Speaker Fuller presented a formal charge alleging official misconduct on thirteen counts.[1] Then, after considerable discussion, the house by a vote of 83 to 41 passed the Fly resolution, which provided for an investigation of the charges.[2] The resolution was unique in the form of investigation which it provided. Usually, a select committee of from five to eleven members is chosen to hear the testimony and to make recommendations as to the advisability of voting impeachment. This house made no attempt to create a small committee. The investigation was conducted in committee of the whole house. The situation was about the same as if a group of ten-year-old boys attempted to select official delegates to attend a circus performance. The house also provided for the employment of an attorney to examine the witnesses.[3] Thirty-nine witnesses were called, including the governor, and they gave nearly six hundred pages of testimony.[4] The governor was also represented by counsel. The most dramatic point in the investigation arose when the governor refused to divulge the source of the $156,000 which he used to liquidate his obligations to the Temple State Bank.[5] His opponents charged that the money came from wealthy liquor interests. Ferguson ignored the veiled threat to cite him for contempt of the house. An enforcement of a contempt sentence would merely have postponed impeachment and would have reacted to his advantage, in that he was still in possession of the governor's office.

The committee of the whole completed its investigation on August 23, and voted to recommend impeachment; and the

[1] *House Journal 1917* (second called sess.), 6.

[2] *Ibid.*, 17, 18.

[3] General Crane was engaged; he was also retained to conduct the state's case during the impeachment trial.

[4] Appendix, *House Journal 1917* (second called session), 159-735.

[5] *Ibid.*, 643 *et seq.*

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house immediately, by a vote of 82 to 51, adopted the recommendation.[1] Ten managers were selected to prosecute the case. The governor was suspended from office upon the formal exhibiting of the articles of impeachment in the senate; and Lieutenant Governor Hobby was formally installed. Because only six days of the constitutional thirty-day period for the special session remained, the trial was postponed after rules for the court of impeachment had been adopted by the senate. On August 29, Acting Governor Hobby issued the call for the third special session of the year, to start immediately upon the adjournment of the second.[2] One of the proclaimed purposes of the new session was "to facilitate a fair and impartial trial of the articles of impeachment preferred by the House of Representatives against the Governor of Texas." This provision was, of course, unnecessary drivel, in that the senate may sit as a court of impeachment after the legislature has officially adjourned. At a later date, Governor Moody committed the same error in regard to the investigation of the state comptroller.

On the second legislative day, the senate resolved itself into a court of impeachment, and the twenty-one articles were formally read. In brief, the articles alleged:—

(1) That Ferguson had appropriated for his own use $5,000 of the Canyon City Normal School fund;
(2) That he deposited $101,000 belonging to the state in banks of which he was a stockholder, thereby deriving personal profit from the same;
(3) That he had testified in the house investigation of March, 1917, that he was not indebted to the Temple State Bank, when as a matter of fact, he was so indebted to the sum of $75,000, which fact was concealed through notes bearing the signatures of friends;
(4) That he had transferred two notes of $37,500 each from the Temple State Bank to the Houston National Exchange Bank for a period of about ten days, and that after the investigation was concluded these notes were returned to the Temple State Bank;

[1] *Ibid.*, 67, 68. [2] *Ibid.*, 93, 94.

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(5) That he testified in the March investigation that he was not indebted to the Temple State Bank, when, as a matter of fact, he owed a personal note, the unpaid balance on which amounted to more than $8,000;

(6) That there was deposited in the Temple State Bank in January, 1917, the sum of $60,000, which money belonged to the state, being of the fund of the secretary of state, and that Ferguson, owning one-fourth of the stock of the bank, derived personal profit from the deposit;

(7) That he was present when $250,000 of state money was deposited in the American National Bank of Austin by an official of the Temple State Bank, and that such deposit produced profits for the Temple State Bank, and thereby, to Ferguson himself;

(8) That he sought to have the highway department and other state departments deposit state funds in the Temple State Bank or in other banks to the credit of the Temple State Bank, for his own personal profit;

(9) That he had deposited, or caused to be deposited, various state funds in banks in which he was a stockholder, to his own personal gain, even though the state treasury was open for the reception of the said funds;

(10) That in an address before the house of representatives on March 3, 1917, he stated that he was not indebted to the Temple State Bank, when, as a matter of fact, he was indebted to that bank for a sum above the limit authorized by the state banking laws;

(11) That, before the recent house committee, he refused to divulge the source of the $156,000 which he received from certain parties immediately after the adjournment of the regular session of 1917, and that such refusal constitutes official misconduct;

(12) That he, contrary to law, transferred certain sums from the adjutant general's department fund to the Canyon City Normal School fund;

(13) That he, after promising to replace funds expended for groceries, gasoline, and other personal items if the court held that such expenditures were not within the purview of the gubernatorial mansion maintenance fund, had consistently failed to keep his promise after the court decided the case adversely to his interest;

(14) That in violation of the state banking laws, he induced the

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Temple State Bank to loan him monies in excess of the thirty-per-cent limit;

(15) That, in vetoing, or attempting to veto, the university appropriations, he violated the state constitution, which provides for the maintenance of a state university;

(16) That he had invaded the constitutional powers of the board of regents, and had sought to replace the legal judgment of the board by his own despotic will in relation to the removal of faculty members;

(17) That he had sought to remove regents contrary to law, and had further attempted to force regents to vote as his own imperious will dictated, such conduct being contrary to the constitution;

(18) That because of the vile charges which he made against the university and its instructors, he was guilty of "criminal libel and slander against the fair name of Texas and one of its most cherished institutions";

(19) That he remitted a forfeiture of $5,000 for W. P. Allen, who was surety on a bail bond, and thereby attempted to control the actions and votes of the said Allen, who was a member of the board of regents;

(20) That he sought to influence the decisions of judges of state courts, that he vetoed a bill raising the salaries of certain judges, and that he refused to give an endorsement to a judge who had sat upon a case which was decided adversely to his interest, as he was a party, and that he wrote such judge a letter bitterly criticizing the decision of the court;

(21) That he permitted one C. W. Woodman, whose nomination as labor commissioner had not been confirmed by the senate, to remain in office an unreasonable length of time after Frank Swor had been confirmed for the position.

The governor demurred to the articles, alleging that: (1) the articles of impeachment had never been legally presented, in that they were adopted in a special session of the legislature, which was convened by proclamation of the governor for specific purposes, among which impeachment was not included; (2) the articles based upon acts committed prior to his reëlection in November 1916 were contrary to the state constitution;[1] (3) none of the charges in articles 14, 15, 16 and

[1] Like demurrers in the McGaughey trial (1893) were sustained.

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17 alleged an act which constituted an high crime or misdemeanor, as defined by the laws and constitution of the state; and (4) that the allegation in article 17 was not sufficient to justify impeachment.[1] The governor also made specific answer to each and every article, denied the facts alleged, and contended that he had not been guilty of the alleged official misconduct, and was, therefore, not legally punishable by the pains and penalties of impeachment.[2]

The impeachment court altered the procedure of earlier Texas impeachment trials. The court made its decisions on objections and other procedural questions publicly in the court chamber without, as in earlier cases, retiring to an executive session chamber for discussion. The rule against oral questioning of witnesses by court members was strictly enforced by the president *pro tem,* who presided throughout the trial. However, suggestions for questions to be put by the attorneys were interpreted as not coming within the prohibition. By agreement, no special vote was taken on the demurrers. In the final balloting, the court members were presumed to consider the demurrers along with the whole question of conviction or acquittal. Separate consideration on the demurrers would have been but a waste of time, for the anti-Fergusonites were in a majority on the court. Ferguson's lone hope lay in mustering a sufficient number of votes to prevent a two-thirds majority against him.

Thirty-two witnesses gave testimony. The climax of the whole proceeding came when the respondent took the stand in his behalf. For five days, the governor unraveled and explained the tangled skein of his administrations. At no time did his defense crumble. He asked no quarter, and expected none. The evidence which he gave was much the same as that which he had given in the two house investigations, in fact some parts of the testimony of these proceedings were read as evidence.[3] He restated his ideas concerning the aristocratic

[1] *Proceedings Ferguson Impeachment,* 16, 17.

[2] *Ibid.,* 17-27.

[3] Some of it was read over the objection of the respondent, and against the precedent established in the Swayne case.

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nature of higher education in Texas. Without exception, he denied the right of faculty members to oppose his administration. He went through the complete history of his financial relations with the Temple State Bank, but would not admit that he had conspired with the officials of that bank to violate the state banking laws. Again, he refused to divulge the source of the mysterious $156,000 loan. Again, there was talk of punishing him for contempt. And again, he ignored the threat. This one episode, more than any other, turned his supporters into disciples, for "Jim" Ferguson had enough moral stamina to stand by his friends. He would not become a traitor for the mere sake of retaining his office. Thus he became the heroic and unfortunate victim of political persecution.

In one supreme effort to thwart conviction, Ferguson, substituting for his chief attorney, closed the case for the defense with an impassioned two-hour speech. He realized that his power lay in oral persuasion. It was the same trick that he had used earlier in the year to prevent legislative investigations. However, much water had run under the Texas political bridge since March, and most of it was pretty muddy. Ferguson began his address with a prediction on the final outcome of the trial. He was not deceived, nor did he display a disposition to feign optimism, for he said:

> . . . I think I appreciate, my friends, what I am up against. . . . For the last few weeks the plain issue and the plain result that weeks ago had been intended and designed by some; and if this Senate shall not carry out that intention and that design, then the great interests in Texas will be very much disappointed, and in their opinion a great mistake will have occurred. I say this devoid of all bitterness. . . . In my younger days I might have given away to temper and permitted myself to become excited and moved to exclamations of bitterness and epithets, but as we grow older, you know, we become nearer being philosophers, and this morning, notwithstanding that I know the verdict that you are going to write, whilst there are some phases about it which I might regret and you would regret if you were in my position, yet, let us not deceive ourselves.[1]

[1] *Proceedings Ferguson Impeachment*, 732, 733.

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VOTES ON FERGUSON IMPEACHMENT ARTICLES

Member	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	Total		
Allerdice	A	A	A	A	A	A	A	A	A	A	A	A	N	A	N	A	A	N	N	A	N	16A	5N	..P
Bailey	A	A	N	N	N	A	A	N	P	N	A	A	N	A	N	N	N	N	N	N	N	7	13	1
Bee	A	A	N	A	N	A	A	N	N	A	A	A	N	A	N	N	A	N	A	N	N	9	12	....
Buchanan (Bell)	A	A	A	A	A	A	A	A	P	A	A	A	N	A	P	A	A	P	A	A	A	18	....	3
Buchanan (Scurry)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	N	20	1	....
Caldwell	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	N	20	1	....
Clark	N	N	A	N	A	N	A	N	A	N	A	A	N	A	N	N	A	N	N	N	N	....	21	....
Collins	A	A	A	A	N	A	N	A	A	A	N	A	N	A	N	A	A	N	A	N	N	17	4	...
Dayton	A	A	N	N	A	N	A	A	N	N	A	A	N	A	N	A	A	P	A	N	N	9	11	1
Dean	A	A	N	N	A	A	A	N	N	A	A	A	N	A	N	A	A	A	A	A	N	14	7	....
Decherd	A	A	A	A	A	A	A	A	A	A	A	A	A	A	N	A	A	A	A	N	N	19	2	....
Floyd	A	A	A	A	N	A	A	N	N	A	A	A	A	A	N	A	A	A	A	A	N	16	5	....
Gibson	A	A	A	A	N	A	A	N	A	N	A	A	N	A	N	N	A	N	A	A	N	14	7	....
Hall	N	N	A	N	N	N	A	N	N	N	N	A	N	A	N	N	A	N	N	N	N	....	21	....
Harley	A	A	N	N	N	A	A	N	N	N	A	A	N	A	N	N	P	A	N	N	N	8	12	1
Henderson	A	A	N	N	N	A	A	N	A	N	A	A	N	A	N	A	A	N	N	N	N	11	10	....
Hopkins	A	A	N	N	N	A	A	N	N	N	A	A	N	A	N	N	N	N	N	N	N	7	14	....
Hudspeth	A	N	N	N	N	N	A	N	N	N	A	A	N	A	N	A	N	A	N	N	N	3	18	....
Johnson (Hall)	A	A	A	A	A	N	A	A	A	A	A	A	A	A	N	A	A	A	N	N	N	19	2	....
Johnson (Harris)	A	A	A	A	A	N	A	A	P	A	A	A	A	A	N	A	A	A	A	A	N	13	7	1
Lattimore	A	A	A	A	N	N	A	A	A	N	A	A	A	A	N	A	A	A	A	A	N	19	2	....
McCollum	A	A	N	A	N	N	A	A	A	N	A	A	A	A	N	A	A	N	A	N	N	7	14	....
McNealus	A	A	A	A	A	A	A	A	A	A	A	A	A	A	N	A	A	N	A	A	A	19	2	....
Page	A	A	A	A	N	N	A	A	P	N	A	A	N	A	N	N	A	N	A	A	N	13	7	1
Parr	N	N	A	N	A	N	A	N	N	N	N	A	N	A	N	N	A	N	A	N	N	....	21	....
Robbins	A	A	A	A	A	A	A	A	A	N	A	A	A	A	N	A	A	N	A	A	N	16	5	....
Smith	A	A	A	A	A	A	A	N	A	N	A	A	A	A	N	A	A	N	A	A	N	17	4	....
Strickland	A	A	A	A	A	A	A	N	A	A	A	A	A	A	A	A	A	N	A	N	N	17	4	....
Suiter	A	A	A	A	A	A	A	N	A	A	A	A	A	A	N	A	A	N	A	A	N	17	4	....
Westbrook	A	A	A	A	A	A	A	N	A	A	A	A	A	A	N	A	A	N	A	A	N	18	3	....
Woodward	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	....	21	....
Total Aye Votes	27	26	18	18	14	24	26	9	15	13	27	27	15	26	6	22	22	9	21	16	2	383	.. .	...
Total Nay Votes	4	5	13	13	17	7	5	22	12	18	4	4	16	5	24	9	8	20	10	15	29	....	260	....
Total Present Votes	....	....	....	....	....	....	....	....	4	....	....	....	....	....	1	....	1	2	....	....	....	....	....	8
Articles Sustained	*	*	....	....	....	*	*	....	....	....	*	*	....	*	....	*	*	....	*	....	....	....	....	....

Legend: "A" means a vote to sustain the article of impeachment; and "N" to exonerate; and "P" means present but not voting. Data compiled from the *Proceedings Ferguson Impeachment*,

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The governor wasted little time in discussing that nebulous thing called the law of impeachment. Not laboring under the illusion that overpowering proof of allegations in impeachment articles is the stuff of which convictions are made, he turned immediately to the political implications involved. After a rather prosaic introduction, he opened up with a full broadside, and he was not aiming at snowbirds. He intimated, at least, that the banking interests of the state were seeking his removal, and charged that Major Littlefield was honored as a great citizen, even though he had deposited large sums belonging to the university in his own bank.[1] Why was it criminal for another person, who happened to be the governor, to deposit state money in a bank in which he "happened" to own stock? So far as I have been able to discover, the charge against Littlefield has never been discussed in print; nor has it been clearly proved that the bankers were instrumental in forcing the impeachment. For political purposes, the charges relating to the university were much more available, and they were pressed to the limit. But, as is usually the case in impeachment crises, the most decisive issues seldom appear above the surface. In our democracy, even removal charges must be sugar-coated, or the political repercussions might be embarrassing to those instrumental in forcing the issue.

Upon the completion of the final arguments, the court proceeded immediately to vote upon the articles. Taking the articles in numerical order, which is not always the practice, the court voted upon each of the twenty-one articles. Numbers 1, 2, 6, 7, 11, 12, 14, 16, 17 and 19, ten in all, were sustained.

The table on page 204 shows how each member of the court voted on every article.

A glance at the table shows that twenty of the thirty-one members of the impeachment court voted against Ferguson on a majority of the articles. Only four members were consistent Fergusonites and no one of them cast a single vote for sustention of the articles. There was less unanimity of opinion in the group that furnished the leadership in the conduct of the trial. In this group were Bee, Bailey, Dean, Lattimore

[1] *Ibid.*, 739, 740.

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and Page. With most of the members, however, it seems to have been a question of whether it was desirable to permit Ferguson to remain in office. Thus, politics, as is usually the case in impeachment trials, contributed more than evidence or legal definition in the final decision of the court. The impeachment was sustained on Saturday, September 22. Senator Bailey offered a resolution providing that the court should meet on Tuesday, the 25th, for the purpose of pronouncing judgment against Ferguson. For no obvious reason, the matter was referred to the senate committee on civil jurisprudence. The committee reported its recommendations, as to the form of the judgment that should be pronounced, to the senate on the 24th and to the impeachment court on the following day. The majority report favored the disqualification of Ferguson to hold any future "office of honor, trust or profit under the State of Texas."[1] Senator Bailey presented the minority report, and in his supporting speech he maintained that the impeachment court could use its discretion as to whether or not it should disqualify one against whom impeachment articles had been sustained. The constitutional clause—"Judgment in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust or profit under this State"—maintained Bailey, was directory and not mandatory in so far as disqualification was concerned; and thus the only mandatory portion of it was the removal requirement. The inclusion of the word "only" in the clause meant, he argued, that less than the maximum penalty might be imposed. Despite his able defense of that interpretation, the minority report was defeated by 17 to 9. Incidentally, this division contributes an interesting impeachment precedent. Two pairs were announced in the final vote. The same pairs were also announced on other votes taken immediately thereafter. These are the only instances that have come to my attention where such a practice has obtained in an impeachment court. I believe it of doubtful validity.

[1] *Proceedings Ferguson Impeachment*, 798-801.

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Upon the defeat of the minority report, an attempt was made to amend the majority report so as to permit a future legislature to remove the disqualification. The proposed amendment was tabled. If it had been adopted, it would have created a question upon which constitutional lawyers might have looked in vain for precedents. Could an impeachment court delegate its powers to a legislative body? If it could not, what court, since the impeachment court is admittedly of supreme and final authority on cases in which it has valid jurisdiction, would be constitutionally empowered to negative the judgment? Could a future senate resolve itself into a court of impeachment and remove the disqualifications? I have never heard nor seen any discussion of this latter proposition. A *sine die* adjournment of an impeachment court is usually interpreted as marking the final act of the court and precluding its future existence except upon the exhibition of articles of impeachment by the house. The majority report, permanently disqualifying Ferguson, was finally adopted by a vote of 25 to 3, and court immediately adjourned *sine die*.

Although Ferguson had unquestionably lost his fight against impeachment, he was by no means resigned to the logic of his position. He had other cards to play, and he played them in his craftiest political manner. The first was his resignation. On Monday, September 24, the day before the impeachment court pronounced final judgment against him, he filed with the secretary of state his resignation as governor. So quietly was this manipulated that notice of it did not appear in the state press until on the morning of the 26th. Ferguson was, of course, seeking to escape the disqualification feature of the judgment. Did the resignation automatically terminate the whole impeachment proceeding? The precedents of American impeachment history are not unanimous upon this point. In most cases pre-trial resignation has served to placate the prosecutors, but, in the Belknap case, as an example, the formal resignation was ignored, and the trial proceeded. In a famous patriotism impeachment in Montana, the trial was conducted as an *ex parte* proceeding. In both of these cases, it was argued by the prosecution that the accused would escape certain

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important incidences of conviction if the proceedings were terminated by the resignation.

Ferguson did not immediately press the issue, but in 1924, seven years after the trial, he announced his candidacy for the governorship. Thereupon one Maddox, a private citizen and a member of the Democratic party, filed an injunction petition seeking to restrain Ferguson and the members of the Democratic state executive committee from placing Ferguson's name on the official primary ballot. The injunction was granted, but Ferguson appealed the case to the court of civil appeals, which certified certain controversial questions to the supreme court. The two judges of this latter court disqualified themselves, and two others were appointed to replace them. Their decision upheld the validity of the impeachment, and denied each of the four main contentions of the appellant: (1) that the special session was without authority to impeach him, in that such purpose had not been included in the official call; (2) that the trial in a session subsequent to the one in which he was impeached was unlawful; (3) that the impeachment was void because neither the constitution nor the statutes defined impeachable offences; and (4) that the resignation had voided the judgment of the impeachment court. Upon the fourth point, the court said:[1]

> On no admissible theory could this resignation impair the jurisdiction or power of the Court to render judgment. The subject matter was within its jurisdiction. It had jurisdiction of the person of the Governor,—it had heard the evidence and declared him guilty. Its power to conclude the proceedings and enter judgment was not dependent upon the will or act of the Governor. Otherwise a solemn trial before a high tribunal would be turned into a farce. If the Senate only had power to remove from office, it might be said, with some show of reason, that it should not have proceeded further when the Governor, by anticipation performed, as it were, its impending judgment. But under the Constitution the Senate may not only remove the offending official,—it may disqualify him from holding further office, and with relation to this latter matter, his resignation is wholly immaterial. . . .

[1] *Ferguson v. Maddox*, 114 Tex. 85 (1924).

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The tricks in the Ferguson political repertoire were by no means exhausted, for, after this adverse decision, Mrs. Ferguson announced her candidacy and was nominated for the governorship. Suit was brought to restrain the secretary of state from placing her name upon the general election ballot of 1924. Three alleged grounds of ineligibility were charged, when the case came eventually to the supreme court: (1) that she was a woman; (2) that she was a married woman; and (3) that she was the wife of James E. Ferguson, who stood disqualified to hold any state office, and as such she could not receive compensation as governor because, if Ferguson received his community half of her salary, the judgment of the impeachment court would be violated. Upon this third point, the court said: "Such a disqualification as is here insisted upon could be supported on no other theory than that of legal entity of husband and wife, and that theory we definitely repudiate. . . ." [1]

During Mrs. Ferguson's administration, the legislature enacted the Amnesty Act of 1925, which pardoned all those in the state against whom impeachment articles had been sustained and removed any and all disqualifications that had been imposed by impeachment court judgments.[2] As a matter of fact, Ferguson was the only person to whom the release could apply. Section 4 of the act read as follows: "The fact that the relief of persons from further operation of penalties and punishments inflicted under or by judgments in impeachment cases rendered by the Senate of the State of Texas is a Christian function to be exercised by the Legislature of Texas. . . ." While Christian forgiveness may have softened the hearts of the members of the Texas legislature, the prevailing intention was to make Ferguson eligible for state office. However, the legislative reinstatement was not long to remain in force, for during the administration of Governor Moody, the legislature, actuated by motives not inferior to

[1] *Dickson v. Strickland*, 114 Tex. 176 (1924).

[2] *Laws of 1925* (reg. sess.), 454, 455.

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those of 1925, took pains to repeal the Amnesty Act.[1] The ethics of the Old Testament replaced those of the New.

The validity of this legislative tampering with the judgment of the impeachment court came before the supreme court in 1930, when Ferguson sought to force the chairman of the Democratic state executive committee to place Ferguson's name on the primary ballot. The plaintiff contended that the law of 1927 was unconstitutional, in that it deprived him of constitutional rights without a judicial trial. It was, therefore, a bill of attainder, an anachronism clearly and expressly forbidden by the constitution. The Amnesty Act, he maintained, had legally returned to him the status that had been deprived by the impeachment judgment. Those rights, once returned, could not legally be taken from him by legislative enactment. However, the special judges of the supreme court declared the Amnesty Act to have been passed in plain violation of the constitution.[2] The legislature was powerless to add to or detract from the constitutional qualifications for the governorship. The Moody repeal act was, therefore, quite unnecessary, and of no legal force. "There is no express or implied power to be found in the Constitution," the opinion reads, "empowering the Legislature to nullify the plain, mandatory judgment in case of impeachment."[3] One may doubt the accuracy of the statement regarding the mandatory nature of the judgment, but the court, presuming infallibility, refused to admit the existence of discretion in the impeachment court on the matter of disqualification. What a future supreme court would rule if a future impeachment court, upon conviction of an officer, removed but refused to disqualify him, offers an interesting question for contemplation.

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[1] *Laws of 1927* (reg. sess.), 360, 361.

[2] Such had also been the language of the attorney general's advisory opinion. See *Attorney General Report 1924-1926*, 199-211.

[3] *Ferguson v. Wilcox*, 119 Tex. 280 (1930). For a brief summary of the post-impeachment-trial litigation, see F. M. Stewart, "Legislative Pardon for Impeachment in Texas", *American Political Science Review*, XXV (May, 1931), 365, 366.

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THE BOYCOTT AS A SANCTION OF INTERNATIONAL LAW[1]

THE term boycott as here employed refers to conduct whereby two or more States combine to interfere with the economic or political freedom of another, as by cutting off trade with its territory. It is sought to consider that conduct as a sanction of international law. Not the efficacy of a boycott in carrying out the desires of the boycotters, but rather its place as an instrument of justice for the promotion of deference for law in the international society, is our theme.

The boycott, as the term is here employed, is a form of collective intervention. The combining of the actor States serves to forge a weapon designed and used to interfere with the economic and commercial life of the State against which it is unsheathed. The propriety of collective intervention, manifested in such a way, is obviously not dependent upon the nature of the instrument employed in order to make it effective, but rather upon other unrelated considerations. Thus it gains no strength in legal contemplation from the fact that it expresses the will of a combination of States in opposition to that of a relatively weaker entity which it is intended to thwart or penalize. From the sheer fact of combination to enforce the will of the combining States the international society may see no necessary promotion of deference for law. That society may in fact exhibit equal concern that each of its members be immune from interference by a group of States in opposition to it.

If collective intervention that assumes the form of a boycott is to function as a sanction of international law, certain obvious requirements must be met. A few suggest themselves. First of all, the boycott should only be employed to thwart or penalize a State on account of its commission of acts which are

[1] An address made before the American Society of International Law, at Washington, on April 27, 1933.

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internationally illegal, and which mark contempt for obligations, contractual or otherwise, toward the boycotting States or the society of nations for which they profess to act. That fact may be difficult to establish. Until it is established in some impartial and convincing way, as by recourse to an arbitral tribunal, the interfering States can hardly claim to be vindicators of the law. This is true when, acting upon their bare indictment of a neighbor, they unleash the boycott against it. If their conclusion is wrong, the action amounts to sheer lawlessness. If their conclusion is correct, they are not unlike the mob that lynches the murderer within its grip. In neither of these situations can the use of the boycott be regarded as the application of a sanction of international law, for it marks avoidance of the ascertaining of essential facts by judicial process. A sanction designed to promote deference for international law, and worthy of respect as an agency thereof, demands that the guilt of the State that is interfered with be previously established by such process. Otherwise the sanction so-called becomes an instrument of caprice on the part of those who wield it, rather than an instrument of justice in behalf of the international society.

The Covenant of the League of Nations respects these principles only in part—that is to say, in demanding amicable adjustment, as by arbitration or inquiry, of differences between States. But it does not make provision for adjudication of the question whether a member of the League in resorting to war has in fact violated its obligations to that body or to the members thereof, and it does not indicate how or through what means the League may determine that a breach has taken place and proceed, on that assumption, to encourage and organize collective intervention, embracing boycott. Members of the League, however, through acceptance of the Covenant, must be deemed to have acquiesced in the idea that it would not be a difficult feat for the League to determine whether the Covenant had been breached by a member, and also to have granted to that body broad authority both to pass upon that question, and to act upon its own answer to it.

For States in general, embracing our own country, there is

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no accepted plan regulating the use of collective intervention as it may express itself through the boycott. Obviously the requirements of international law demand that it never be unleashed against a State that has done no wrong. Nevertheless, there may be a strong temptation in a particular case to ignore that requirement when the conduct of an ill-favored State is obnoxious to a group of others that regard it as deserving repression, and as itself a breaker of covenants, or even a violator of international law. In a word, the group may in fact set loose against that State a vast and harm-producing force regardless of the absence of proof that it has violated a single international obligation. To put it bluntly: States may in fact combine to thwart or penalize another that has done no wrong or that remains unconvicted of wrongdoing. The possibility of such lawless use of the boycott does not necessarily imply that groups even of determined and powerful States will unleash themselves when provocation is strong, even when they have worked out plans for applying the boycott. Perhaps they should not be charged at the present day with the formulation of sinister devices for the abuse of a weapon that is within their armory. Still, the weapon is there; and of late not only has attention been focused on it, but also appeal has been made to seize and brandish it.

Foreign offices are of course aware of all this. They are not ingenuous about the character of the boycott; they are not ignorant of the fact that it constitutes a manifestation of collective intervention; they are not impervious to the difficulty of excusing such intervention; they are not blind to the unlawfulness of combining to injure a State that has done no wrong. They are alert to see the dangers that the boycott has in store for the boycotters. Thus a realistic approach to the problem today encourages opinion that the United States, for example, is, and will long remain, definitely unwilling to unite in boycotting a State not shown as by some convincing process to have violated a legal duty toward the boycotters, and that it will not be disposed to have recourse to such action save when, according to every reasonable test, it could not be deemed to be a breach of duty toward the State opposed.

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Special difficulties present themselves when States that regard themselves as at peace undertake to single out and boycott by any process a particular State engaged in war. Such action marks participation in the conflict and is not to be reconciled with those obligations which the law of nations still imposes upon neutral States. That law forbids neutral governmental participation in the conflict. Nor is the prohibition relaxed when the very embarking upon war by a particular belligerent amounts to a breach of a special duty toward other powers not to have recourse to such action. Unless, therefore, by the terms of a definite agreement a State is released from its obligations as a neutral when war ensues, it finds itself in an embarrassing plight if, by virtue of a boycott or otherwise, it proceeds to intervene in a war between any others. Certainly the use of a boycott as an instrument of intervention is not under such circumstances to be looked upon as a sanction of international law. According to the law of nations as now existing, the State that would intervene in a war must do so definitely as the ally of that particular belligerent which it would assist.

It is not here sought to discuss the special régime under the Covenant of the League of Nations whereby each member thereof acquiesces in a scheme contemplating the penalization of itself by its fellow-members in the event of a breach of the Covenant through its recourse to war. It suffices to observe that States outside of the League gain no such acquiescence from a boycotted belligerent, which may be expected to stand on its legal rights when interfered with. In general, therefore, neutral States outside of the League, combining with others, inside or outside of that organization, in the boycott of a particular belligerent, subject themselves to the danger of being denounced as violators of the law of nations, and of being compelled to pay damages for the very success of their achievement. These practical considerations, which are the grim consequence of the law of nations as it is today, must be expected to exert a profound influence upon those who control the foreign affairs of nations, embracing the United States. Nor are they likely to be lost sight of, despite the seeming

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effort to divert attention from them. The law of nations is not static; it rather embodies the flexible response to the needs of the international society that each succeeding century makes apparent. Nevertheless, that response has not as yet revealed a common understanding that neutral obligations have been relaxed, or that the law of neutrality is non-existent. As Judge John Bassett Moore found occasion recently to say:

> As a life-long student and administrator of international law, I do not hesitate to declare the supposition that neutrality is a thing of the past to be unsound in theory and false in fact. There is not in the world today a single new government that is acting upon such a supposition. Governments are acting upon the contrary supposition and in so doing are recognizing the actual fact.

It might not be difficult to point to the essentials of a multipartite treaty designed to permit the use of the boycott as among the contracting powers, as an approved and legal sanction in their common behalf. Some ought to be obvious. Thus the boycott should not be unsheathed against a State that has not defied a definite undertaking to abandon certain forms of conduct. Next, the forbidden conduct should be specified with exactness and particularity. It should not lend itself to easily divergent understandings; nor should it involve a complicated inquiry to ascertain the bearing of the fundamental facts decisive of a breach. The boycott should follow and never precede something akin to a judicial determination of whether a breach had taken place. It is far from certain that a group of States, embracing our own country, would be prepared to accept such terms, and so subject themselves individually to the application of a boycott under specified conditions. But until States are prepared to go to such length, and restrict along such lines the use of the boycott, it is not apparent how it can be employed as a veritable sanction of international law.

A still broader question presents itself. Is it desirable or feasible that States should by common agreement endeavor to provide for the use of the boycott? To put the question differently, would organized collective checks upon State con-

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duct through the boycott give promise of promoting international justice? A variety of considerations enters into the solution of that problem. They have not yet fully been appraised or thought upon. Civilization, therefore, is perhaps hardly ready to announce its conclusion. Before it has done so, it is not inappropriate to call attention to some aspects of it that closely concern the use of the boycott.

Collective intervention manifested through a boycott is a powerful weapon of self-help. It may sap the strength of the country against which it is applied as effectively as a victorious hostile army or a triumphant blockade. It marks the welding together of economic power to crush or penalize a weaker adversary. It is non-amicable in conception and operation. It is the expression of conflict by forces that may be as relentless and effective as the sword or the submarine. While capable of employment impartially as against two or more States engaged in any form of controversy, it is especially adapted for use against an ill-favored State, perhaps itself a belligerent, which is singled out for chastisement. It thus becomes a convenient means by which outside States may unite to take sides in a conflict that engages others. In such event, it is defiant of neutral obligations when a war is acknowledged to exist, and contemptuous of the principles of political independence when it does not. Whether, therefore, the boycott is to be grafted into the body of international law as an accepted sanction thereof may depend upon whether the international society commits itself to what may be called the taking-of-sides theory; or to be more concrete, whether that society deems it expedient to permit and even utilize organized groups of States to intervene collectively to enforce respect for what they conceive to be the requirements of law or of treaty obligations. Such a policy is the antithesis of neutrality; it expresses participation in, rather than aloofness from, conflicts that engage warring States. It challenges accepted theories of political independence. As already suggested, unless preceded by a judicial determination of the conduct complained of, it reflects the assertion by a group of States of the right to pass upon the propriety of conduct of a foreign State, and to

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act upon the conclusion that that conduct merits denunciation and punishment. It thus makes the group an authoritative agency to charge wrong-doing, to convict the alleged wrong-doer, and to inflict punishment upon it. It is worth while to look backward and observe the success of a somewhat similar philosophy that obtained in parts of Europe not much over a century ago.

Multipartite understandings of 1815 and thereafter gave splendid impetus to the taking-of-sides theory. The powers controlling continental Europe bound themselves together to boycott democracy and all its ways. To unite for the overturning of governments that had seized the reins from monarchical hands was deemed to be reasonable because the objective was regarded as thoroughly sound — namely, the suppression of revolution, and the overthrowing of constitutional and republican forms of government produced by it. The scheme of collective interference was slow in dying; but it finally collapsed because world opinion did not accept the premise upon which it was based. The United States and Great Britain held back—a fact that hastened the growth and assured the success of republican institutions throughout Latin America. In a word, the objective of the combining powers was and proved to be a mistake.

Today, we are prone to regard with amusement the character of the mentality of princes who did not perceive the futility of their aim. Our confident estimate of their blindness may perhaps justify a little conjecture whether civilization, a century hence, will appraise with equal amusement and disdain a political assumption or philosophy that was responsible for certain features of the treaties that began the termination of the World War, and produced a recrudescence of the taking-of-sides theory.

That assumption was that it is not impossible or even difficult for statesmen to determine where the blame lies for a conflict that may engage two or more foreign States; and that the ease of such a task does not even necessitate the invoking of judicial aid as a means of proving the fact of guilt. That assumption, moreover, was believed to be illustrated by events

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of the World War. The Allied and Associated Powers pointed with sincerity and conviction to one enemy State, and to the head thereof, as *solely* responsible for that conflict. This was a powerful factor in encouraging the organization of a régime designed to facilitate and encourage the taking of sides against a State deemed to be guilty of a breach of Covenant in resorting to war, and that made no arrangement concerning the mode of establishing a breach. Not until after the treaties were perfected did it seemingly dawn on the interested powers that the singling out of the State really responsible for a conflict is a complicated and difficult task, calling for banishment of all prejudice, and one of which the solution peculiarly eludes the statesman and diplomat, and taxes sorely even the impartial minds of neutral judges. Nevertheless, the significant thing is that enlightened opinion among the peoples of the Principal Allied and Associated Powers began to doubt whether responsibility for the World War could in fact be confined to a *single* State or individual. That doubt was never greater than today. Every event that has marked the conflicts, howsoever described, that have afflicted States since the World War, has served to bring home to civilization increasing realization of the difficulty of ascertaining responsibility for international turmoil resulting in war, and a fresh sense of the grave danger of error when statesmen or politicians, rather than judges, essay to pass upon the propriety of the conduct of foreign countries. In a word, we are already far enough from the World War to appreciate the essential fallacy of one of the fundamental suppositions on which the taking-of-sides theory was, in 1919, supported and grafted into treaties. Because that fallacy is now being widely seen and no longer veiled from sight, there is solid reason to doubt whether civilization has as yet definitely and finally committed itself to the ultimate policy best adapted to discourage contempt for the law or for agreements to maintain peace. It is believed to be too early to conclude that the international society has yet emerged from an experimental period, or has reached its final judgment concerning the value to itself of collective intervention through the medium of the boycott. In view of the diffi-

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culties inherent in the application of the taking-of-sides theory, it is not impossible that effort may be made in another direction—that is to say, in developing the potentialities of neutrality, and in enlarging the effort if not the obligation of outside States to lend no aid to both or all parties to a particular conflict. It is still, however, too early to predict with confidence what is to be the final verdict of the international society; whether it will favor the taking-of-sides theory and modes of applying it, or the theory of neutrality enlarged to meet the exigencies of the time. Of one consideration, however, foreign offices must, and doubtless will, take cognizance. The guilt of an alleged offender against the law of nations or of a violator of international covenants needs be established by judicial process, before collective interference through the boycott should take place. The requirements of a law-governed society suggest, therefore, that any general approval of the boycott may be expected to depend upon the confining of its use as a sanction to cases where judges rather than statesmen or diplomats or politicians have fixed the responsibility or established the guilt of the State that is to be subjected to economic punishment.

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THE LODGE COROLLARY TO THE MONROE DOCTRINE

MAGDALENA BAY, a magnificent harbor in Lower California, has long been an object of jealous concern on the part of certain interested groups in the United States, because of its superb advantages as a potential naval base, and because in the hands of a foreign power it would seriously menace the Panama Canal, California and the line of communications between them. From time to time anxiety had been aroused by rumors of foreign activity in Lower California, but it was not until 1912 that agitation against a possible Japanese occupation of the bay assumed serious proportions. To understand how unauthenticated reports of Japanese designs could cause widespread alarm, it is necessary to remember that, while official relations between the United States and Japan were amicable, the state of mind on the Pacific coast, largely as a result of recent difficulties with Japanese immigrants, was still highly inflamed.

The first of these rumors, to the effect that the Japanese were attempting to secure a naval base on the western coast of Mexico, began to take shape as early as 1911. Manzanillo, Salina Cruz and Todos Santos were variously mentioned in this connection. The first two appear to have been suggested by fishing rights granted to Japanese in 1911 by the Mexican government, and the Todos Santos hoax is believed to have been invented by Mexicans desiring American intervention. In any event, all of these reports were proved to have been without substantial foundation.[1]

In the latter part of 1911, an American syndicate began negotiations with a Japanese concern for the purpose of disposing of an enormous, but highly unprofitable, concession in the vicinity of Magdalena Bay. The correspondence between

[1] *Cong. Record*, 62 Cong., 2 sess., p. 5663; *New York Times*, April 5, 1912; David Starr Jordan, *War and Waste* (New York, 1913), p. 256.

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the American company and the Department of State, which was not made public until called for by the Senate in May 1912, indicates that the Japanese concern would not invest in the concession without the approval of their own government, and that the Japanese government would not consent to the transaction unless it was unobjectionable to the United States. To the inquiries of the agent for the American syndicate, the Department of State replied that because of the outcry that was certain to be made in some quarters, the contemplated transfer would obviously be distasteful to the government of the United States.[2] The Japanese concern thereupon lost interest in the matter.

It appears that Senator Lodge, from his vantage point on the Senate Committee on Foreign Relations, heard of these negotiations, and in his notable speech of February 29, 1912 on the arbitration treaties then pending, stated that the occupation of Magdalena Bay by a great Eastern power would be a matter that the United States could under no circumstances permit to come before an arbitral tribunal. He added specifically that an indirect movement had already been begun by a foreign power to secure the harbor, and although he mentioned no names, it was obvious that he was referring to Japan.[3]

The Hearst newspapers took up the cry with characteristic intemperateness, and by April 2, 1912 so much interest had been aroused in the matter that Lodge introduced a resolution in the Senate, which passed without difficulty, requesting the president to submit any information in his possession relative to the purchase of land at Magdalena Bay by the Japanese government or by a Japanese company. A few days later President Madero of Mexico, wishing to avoid any possible misunderstanding, gave to the American press a categorical denial of the truth of these rumors,[4] and on April 5, 1912 Marquis Saionji, prime minister of Japan, cabled an even more emphatic denial. He explained that a Japanese company had,

[2] *Sen. Doc.*, no. 694, 62 Cong., 2 sess., p. 4.

[3] *Cong. Record*, 62 Cong., 2 sess., p. 2603.

[4] *New York Times*, April 4, 1912; *Sen. Doc.*, no. 640, 62 Cong., 2 sess., p. 3.

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some time before, obtained fishing rights from the Mexican government; that the northern terminus of the fishing district was some four hundred miles southeast of Magdalena Bay; that similar privileges had been granted to the citizens or subjects of the United States, Great Britain and Italy; and that the transaction was entirely without political significance.[5] Shortly thereafter the Japanese ambassador orally made an unreserved denial of the rumored purchase to the Department of State.[6]

These Japanese statements cleared the air effectively in Washington, and it was felt in some quarters that the report on the subject, then in the course of preparation by the Department of State, would be unnecessary.[7] Senator Lodge, who throughout the discussion admitted that the attitude of the Japanese government was entirely correct, apparently believed that the denial did not meet the issue squarely, for he still insisted that a company, though in no way associated with a government, might eventually serve as an entering wedge for the latter. It was difficult for him to understand why a group of Japanese should seek to purchase a concession of negligible commercial value, especially in view of the fact that the site was of the utmost strategic importance, if they did not intend to establish a coaling station or a naval base.[8] The report of the Department of State, transmitted by the president to the Senate under date of April 30, 1912, stated that the situation had been thoroughly investigated, that denials had been forthcoming from both the Mexican and the Japanese governments, and that there was "no evidence whatever adequate to show any acquisition of land or any intention or desire to acquire land, whether directly or indirectly, in Mexico by or on the part of the Imperial Japanese Government."[9]

[5] *New York Times*, April 6, 1912.

[6] *Sen. Doc.*, no. 640, 62 Cong., 2 sess., p. 3; *New York Times*, April 6, 1912.

[7] *Ibid.*, April 7, 1912.

[8] *Cong. Record*, 62 Cong., 2 sess., pp. 5660-61, 5662, 5665.

[9] *Sen. Doc.*, no. 640, 62 Cong., 2 sess., p. 2. The correspondence between the American agent and the Department of State appeared in another report trans-

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Despite the unequivocal nature of this report, there was a feeling in Washington that something would be done about the situation by Congress, and the correspondent of *The New York Times*, anticipating the action of the Senate by three months, wrote: "An important declaration of the Senate, materially extending the scope of the Monroe Doctrine, is likely to follow. . . ."[10] A subcommittee of the Senate Committee on Foreign Relations, consisting of Lodge, Root, Hitchcock and Rayner, began work on the preparation of a resolution. Such a task was admittedly a delicate one, for Germany had large groups of nationals in Brazil, and Japan, in view of her categorical denial, might well take offense at too pointed a statement.[11] Finally a resolution was agreed upon, which Lodge later claimed that he and Root drafted, and was accepted *verbatim* by the entire committee.[12] On July 31, 1912 it was reported unanimously to the Senate, with the declaration that no proof had been found of activity on the part of any foreign government, but in view of the fact that the American syndicate had apparently attempted to sell the land on the basis of its strategic value, the committee felt that some safeguard was necessary.[13] On August 2, 1912, after some discussion and debate, most of which took place in secret session, the Senate passed the resolution by a vote of 51 to 4.[14] It read:

> *Resolved*, That when any harbor or other place in the American continents is so situated that the occupation thereof for

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mitted on May 23, 1912, in response to a Senate resolution of May 16, 1912. *Sen. Doc.*, no. 694, 62 Cong., 2 sess. For an adequate account of this stage of the affair see Herbert Kraus, *Die Monroedoktrin* (Berlin, 1913), pp. 230-236.

[10] *New York Times*, May 2, 1912.

[11] Lodge was reported to have favored a resolution that would be unmistakable in its reference to Magdalena Bay, but Root urged the use of more diplomatic language, and in the end his opinion prevailed. *Ibid.*, July 31, 1912.

[12] H. C. Lodge, "One Hundred Years of the Monroe Doctrine", *Scribner's Magazine*, October 1923, p. 421; *New York Times*, August 1, 1912.

[13] *Cong. Record*, 62 Cong., 2 sess., p. 9923.

[14] The resolution was amended in one unimportant particular on the motion of Lodge. The vote of the four dissentients can for the most part be attributed to objections to phraseology that they voiced during the debate.

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> naval or military purposes might threaten the communications or the safety of the United States, the Government of the United States could not see without grave concern the possession of such harbor or other place by any corporation or association which has such a relation to another Government, not American, as to give that Government practical power of control for naval or military purposes.[15]

A number of observers have concluded that the Lodge resolution was of no effect because it was not signed by the president. This not unnatural error has arisen from the fact that Senate resolutions, as distinguished from joint resolutions, do not require presidential approval. Nevertheless, the Lodge pronouncement appears to have been framed without consultation with, and in the face of the opposition of, the executive branch of the government.[16] In certain quarters the observation was made that in various ways the Senate, and more particularly the Committee on Foreign Relations, had shown itself to be distinctly out of harmony with Secretary of State Knox. There were even rumors to the effect that the Senate, lacking confidence in the Department of State, had chosen this method of directing the matter to the attention of the president, although it had expected no important revelations to be made.[17] Taft, who was apparently willing to be guided by the investigations of the Department of State and who desired to avoid unnecessary complications with Japan, was distinctly annoyed at the turn affairs had taken.[18] He naturally resented what might have been interpreted as an attempt on the part of Lodge to take under his personal direction the foreign policy of the United States, and in this connection he wrote to David Starr Jordan shortly after the passing of the

[15] *Cong. Record*, 62 Cong., 2 sess., pp. 10045, 10046.

[16] See *New York Times*, August 3, 1912.

[17] *Ibid.*, April 6, 1912. Two members of the Committee on Foreign Relations believed that Lodge's original purpose in agitating the matter was to expose the rumors so that the public would see that there was no truth in them. *Ibid.* See also Boston *Evening Transcript*, August 3, 1912.

[18] W. H. Taft, "The Monroe Doctrine: Its Limitations and Implications", *The Independent*, December 18, 1913, p. 544.

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resolution: "I believe that I also am part of the United States government." [19]

The question naturally arises as to what basis there was in fact for the Magdalena Bay scare. It is true that certain Japanese capitalists had been interested in the American concession there, but they had dropped the negotiations when the Department of State had merely frowned upon the transaction. It is also true that a Japanese company had secured fishing rights on the western coast of Mexico, but this fishing district was not even geographically connected with Magdalena Bay. Furthermore, the Japanese and Mexican governments had both denied any knowledge of the alleged aggression. In fact, there is evidence that the House Committee on Foreign Affairs did not see eye to eye with the Senate on this matter, for its chairman characterized the scare as the sheerest "buncombe".[20] The Department of State, with adequate machinery for investigation and a vital interest in averting such a menace as Lodge professed to fear,[21] emphatically denied direct or indirect designs on the part of the government of Japan. In addition, the Japanese were obviously not desirous of provoking the United States, and they well knew that it would be impossible to conceal for long a naval base in Lower California. The *Japan Advertiser*, a Tokio newspaper printed in English, commented pertinently on this point:

> We are not inclined to credit the Japanese Government with any designs in Magdalena Bay. It is obvious that if they were to negotiate with Mexico the lease of a coaling station there they would evoke a protest from Washington couched in no uncertain terms. Japan has constantly and repeatedly displayed

[19] D. S. Jordan, *The Days of a Man* (New York, 1920), vol. II, p. 410. The date of this letter is not given, but it was obviously written between August 2, 1912 and March 4, 1913.

[20] *New York Times*, April 5, 1912.

[21] It is obvious that much of the material in Lodge's Senate speech on this subject was based on hearsay. If Lodge had possessed any information of which the Department of State was ignorant—an unlikely situation—there is no reason for supposing that he would not have presented it forcefully. See his speeches against England in *Cong. Record*, 53 Cong., 3 sess., 1210; *ibid.*, 54 Cong., 1 sess., p. 413 *et seq.*

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her intention to dwell at peace with her powerful transpacific neighbor, and she has done so in the face of repeated provocation. She has never sought to make trouble, and no surer way could be found for making trouble than to meddle in Magdalena Bay.[22]

The question may also be asked whether the Lodge resolution was an extension of the Monroe Doctrine, or whether it was not to be associated with that historic pronouncement. Lodge himself announced on the floor of the Senate: "The resolution is merely a statement of policy, allied to the Monroe doctrine, of course, but not necessarily dependent upon it or growing out of it."[23] Shortly before this he had asserted that he had in mind merely defining the word "colonization" to cover foreign companies, the menace of which had not been foreseen in 1823, as well as foreign nations.[24] This last statement and the frequency with which the Monroe Doctrine was mentioned in the debates on the resolution indicate that the new corollary was not only an extension of the Monroe Doctrine, but that it had been designed as such by its sponsors. Taft thought otherwise, for he wrote in 1913: "It suffices to say that it is not an enlargement of the Monroe Doctrine. It only calls special attention to a way of indirection by which it can be violated."[25] This, however, is merely another way of saying that the scope of the original had been extended.

Although the resolution was in harmony with the Monroe Doctrine and was generally considered an outgrowth of it, there was a widespread belief in the Senate, which Lodge shared, that this new statement of policy was justified by its own terms. There were many who felt that if a Monroe Doctrine had not existed with which to associate it, the resolution might well have rested upon the principle of self-defense or self-preservation, which was, in fact, the basis of the original.[26] Lodge himself, writing about his corollary eleven

[22] Quoted in *New York Times*, May 5, 1912.

[23] *Cong. Record*, 62 Cong., 2 sess., p. 10045.

[24] *Ibid.*, p. 5662.

[25] Taft, *loc. cit.*, p. 544.

[26] *Cong. Record*, 62 Cong., 2 sess., pp. 5662, 5663, 10045.

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years later, stated: "This resolution was spoken of in the press as an extension of the Monroe Doctrine, which was not quite accurate because the resolution rested on the much older doctrine of self-preservation, which is held by all nations." [27]

The most noteworthy feature of the corollary was that it restricted the activities of private foreign concerns. We should note, however, that from time to time steps had already been taken in this direction, for as far back as 1880 President Hayes and his secretary of state, William M. Evarts, had unsuccessfully attempted to arouse public opinion against the construction of an isthmian canal by a French company.[28] Secretary Blaine, in 1881, had likewise voiced his opposition.[29] And Representative Crapo had anticipated the Lodge corollary when, in December 1880, he introduced a joint resolution in Congress to the effect that "the construction of an interoceanic canal . . . by means of foreign capital under the auspices of and through a charter from any European government is hostile to the established policy of the United States, is in violation of the spirit and declarations of the Monroe doctrine. . . ." [30] In substitute form this resolution was adopted by the House Committee on Foreign Affairs, which, in a subsequent report, clearly indicated that the isthmian situation was a matter of concern, because "it is European capital as distinguished from a European government that is to build and operate the Panama Canal", and recalled that the beginnings of British India were to be found in a purely private trading corporation.[31] Nevertheless, no official action was taken at this time.

[27] Lodge, *loc. cit.*, p. 422. Professor Laferrière observed that although the resolution rested on the principle of self-defense, it could not be justified by any recognized principle of international law. He suggested that the corollary had been associated with the original in the hope that the immense prestige of the latter would perpetuate it. J. Laferrière, "La Résolution Lodge et la Doctrine de Monroe", *Revue Générale de Droit International Public* (1913), vol. XX, p. 549 *et seq.*

[28] A. B. Hart, *The Monroe Doctrine* (Boston, 1916), pp. 170-172.

[29] See Laferrière, *loc. cit.*, p. 560.

[30] *Cong. Record*, 46 Cong., 3 sess., p. 107.

[31] *House Reports*, no. 390, 46 Cong., 3 sess., p. 5.

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A more exact parallel involved the possible occupation of the Danish West Indies by a European power acting through a private concern. As early as 1898 Lodge had advocated the purchase of this group of islands, and one of his strongest arguments for doing so was the desirability of avoiding possible complications with foreign powers.[32] In 1905 he became alarmed at a situation which appears to have contained practically all of the elements that were to be found in the Magdalena Bay affair and to have suggested the principle of the Lodge resolution some seven years prior to its passage by the Senate. Under date of June 10, 1905, Lodge wrote to President Roosevelt:

> . . . I see in this morning's despatches that under cover of the Danish Asiatic Company the Hamburg-American Company is going to establish a big German coaling station at St. Thomas. This shows that the Kaiser is still hankering after those islands and under cover of a commercial company is establishing a coaling station which may be used for other than commercial purposes. It is the thin end of the wedge and I do not like the move at all. A coaling station is what Germany most lacks in our waters and the Kaiser could use this commercial station for warships. . . . I think a broad hint to him and to Denmark would be well.[33]

This rumor may have been as lacking in foundation as was that regarding Magdalena Bay; nevertheless, it indicates that the subsequent resolution was probably beginning to take shape in Lodge's mind. By 1912 a "broad hint" had come to mean an expansion of the Monroe Doctrine.

The extension of the original doctrine to private concerns

[32] *Sen. Reports*, no. 816, 55 Cong., 2 sess., p. 6.

[33] H. C. Lodge (ed.), *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge* (New York, 1925), vol. II, pp. 135-136 (hereafter cited as Lodge, *Letters*). The *New York Times* for February 25, 1912, carried a large front-page article about the intention of the Danish government to lease St. Thomas to a group of financiers for ninety-nine years, with full power to sub-lease. The possibility of complications involving the United States was also pointed out. The project fell through, however, because the Danish syndicate was unable to raise the necessary money. Kraus, *op. cit.*, p. 238. Doubtless the agitation over this matter had something to do with preparing the ground for the Lodge resolution.

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raised the question as to what right this country had to restrict legitimate commercial activity in Latin America, and if this right was assumed, into what position it would ultimately lead the United States. There was much loose talk about the Senate's having committed itself to warn foreign companies from any tract of land within 2,500 miles of either terminus of the canal, but it should be noted that the resolution referred only to those points in the Americas which, if occupied by a foreign power, would threaten the communications or safety of the United States. It is true that there were English oil companies on the coast of Mexico and German enterprises on the coast of Brazil, but neither of these groups occupied places that particularly concerned the United States. Nevertheless, if either England or Germany had shown an undue interest in Magdalena Bay, there is no reason for supposing that similar action would not have been taken by the Senate.

The other unique feature of the new corollary is that for the first time the principles of the Monroe Doctrine were specifically applied to an Asiatic power.[34] Although the resolution did not mention the Japanese by name and was so worded as not to refer to any foreign nation, it was distinctly understood that the warning was directed against Japan. That nation had been specifically referred to by the Lodge resolution of inquiry, by the senators in their debates, and by the press. The omission of a name, an indirection which in no wise deceived the Japanese, was a concession to a sensitive people, and a precaution against the possible future activity of any other power.[35]

Newspaper comment in the United States ranged from an expression of the opinion that the corollary was of no consequence at all to the assertion that the new doctrine was broader and more important than the original and might well be adopted by the administration.[36] Some editors, particularly

[34] Professor Hyde suggests that Russia could properly be considered an Asiatic power in 1823. Charles C. Hyde, *International Law* (Boston, 1922), vol. I, p. 142.

[35] *Cong. Record*, 62 Cong., 2 sess., p. 5665.

[36] Boston *Evening Transcript*, August 3, 1912; *Literary Digest*, August 17, 1912, p. 248.

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those of the so-called liberal journals, had already heard so many sensational prophecies of trouble with Japan that they ridiculed the new alarm; some believed that the original doctrine could never be made any clearer than Monroe had made it; some interpreted the resolution as an evidence of the disfavor of the United States for foreign corporations in general; and some considered the corollary a new and militant warning to other nations to keep out of Latin America.[37] A reasonable expression of opinion was that if the Senate, almost unanimously, had felt the necessity for taking this action, "we see nothing offensive or inappropriate in the language and spirit in which the resolution is phrased."[38]

In view of the tendency of a portion of the Japanese press to jingoism, the moderate reaction of Japanese editors to a measure that was aimed directly, though in veiled terms, at Japan is remarkable. In general, the new doctrine was considered of little importance and Lodge's utterances on the subject were not taken seriously. Although some indignation was expressed, it was felt that armament manufacturers and the Hearst interests, whose holdings in Mexico would greatly appreciate in value if annexation were made necessary, were back of the scare. All agreed that Japanese interests in Latin America were commercial, not territorial, and that no existing investments would be injured by the resolution.[39] The government itself took no official cognizance of the Lodge doctrine.

In England, comment on the new corollary, which did not appear likely to injure English interests, was "almost uniformly friendly".[40] There was a feeling that the new doc-

[37] *New York Times*, August 3, 1912; *Outlook*, August, 17, 1912, p. 843.

[38] *Ibid.*, p. 844.

[39] The Japanese appear to have been more interested in the Magdalena Bay scare in April, when Lodge introduced his resolution of inquiry, than in August, when the Lodge resolution was approved by the Senate. At the latter date the nation was plunged into mourning over the recent death of the emperor. *Japan Weekly Mail*, April 13, 1912, p. 425; April 20, 1912, p. 460; *Literary Digest*, June 1, 1912, pp. 1150-1151; September 21, 1912, pp. 459-460.

[40] Sydney Brooks, London correspondent for *Harper's Weekly*, September 7, 1912, p. 15. The London *Times*, August 5, 1912, stated editorially, "English statesmen have never been critical as to the evolution of the Monroe doctrine".

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trine, in the light of the original, was not unreasonable, and that, whatever the justification, it was the better part of wisdom to tell a company to keep out rather than at a later time to attempt to humiliate a nation.[41] In general, the pronouncement was looked upon as a legitimate move on the part of the United States to protect the approaches to the Panama Canal, and it was even suggested that England might some day have to follow the example of the United States and erect similar safeguards against private concerns.[42] The English people were probably in a particularly receptive mood at that time, for only a year before they had protested against the German occupation of Agadir on the ground that England's Mediterranean communications would be jeopardized. Although Lodge cited this incident during the debates as a parallel case,[43] it should be observed that nations, not companies, had been involved.

In 1912, Lodge was probably as well informed about the foreign affairs of the United States as any other man outside of the Department of State. He had made this subject his special study, and because of his intimate relations with the Roosevelt administration, he had enjoyed unusual advantages for enlarging his knowledge.[44] When one considers his opportunities for gathering information, his natural intelligence and thoroughness, his willingness on two occasions to scoff at rumors of Japanese aggression several months before he introduced his resolution,[45] it is difficult to dismiss his action, as Taft did, with the assumption that he was misinformed.[46]

The fact that by 1912 a rift had appeared between Taft and Lodge may have had some slight bearing on the intro-

[41] *The Spectator*, August 10, 1912, p. 194. This was also Lodge's idea. *Cong. Record*, 62 Cong., 2 sess., p. 5661.

[42] London *Times*, August 3, 1912; August 5, 1912.

[43] *Cong. Record*, 62 Cong., 2 sess., p. 10045.

[44] See Theodore Roosevelt, *An Autobiography* (New York, 1916), pp. 367-368.

[45] *Cong. Record*, 62 Cong., 1 sess., p. 200; *ibid.*, 62 Cong., 2 sess., p. 5663.

[46] Jordan, *op. cit.*, vol. II, p. 410. This is the same letter previously referred to.

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duction of the resolution. There is an abundance of evidence to show that prior to 1909 Lodge both liked and thought highly of Taft; but the latter, in an attempt to rid his administration of Roosevelt's influence, appears to have alienated the Massachusetts senator.[47] Shortly before the Magdalena Bay scare, Lodge led a vigorous attack in the Senate upon the arbitration treaties then pending, an attack that resulted in the defeat of the treaties and the discomfiture of Taft. Under the circumstances, probably neither the senator nor the president could view the other dispassionately. It is highly improbable that Lodge introduced his resolution merely to embarrass the administration, but if there had been more friendliness between the executive and the Senate, the result might have been different.

Another minor motive prompting the resolution may have been Lodge's unfriendliness for and distrust of Japan. As far back as 1895 the senator had described in vivid, though inaccurate, terms the Japanese menace in Hawaii;[48] and during Roosevelt's administration, when there was much loose talk of Japanese aggressions, Lodge had been in a position to hear most inflammatory reports, some of which had come from the president himself.[49] In 1908 the newspapers broadcasted a statement from the senator to the effect that Japan would insult the United States if it were not for the navy, and Lodge did not deny this report.[50] Even in later life, he took an unsympathetic attitude toward the Japanese and their pretensions.[51]

A tempting hypothesis is that Lodge promoted the scare for the purpose of grooming himself for the presidential

[47] L. F. Abbott, *The Letters of Archie Butt* (New York, 1924), vol. I, pp. 271-273; Lodge, *Letters*, vol. II, p. 334.

[48] *Cong. Record*, 53 Cong., 3 sess., p. 1211.

[49] See Roosevelt, *op. cit.*, pp. 367-368; Lodge, *Letters*, vol. II, p. 135; M. A. de Wolfe Howe, *George von Lengerke Meyer* (New York, 1920), pp. 365-366.

[50] This statement appears in a letter of Roosevelt, edited by Lodge, without the customary footnote to the effect that it was false. Lodge, *Letters*, vol. II, p. 320.

[51] See *Cong. Record*, 66 Cong., 1 sess., p. 6872 *et seq.*; *New York Times*, April 18, 1924; May 27, 1924.

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nomination. Taft thought so,[52] but under the circumstances he was not an unbiased judge. It is true that Lodge began his agitation at the proper time to draw attention to himself as a compromise candidate,[53] but the theory falls down when it is observed that his final resolution was reported almost a month and a half after Taft had been renominated. A rather uncharitable explanation of his subsequent action, which may possibly contain some truth, is that Lodge, after raising so much dust about a Japanese menace, felt called upon to do something in order to save his face, and that his fellow-senators helped him out by reporting the resolution.[54]

In Washington circles the opinion was prevalent that Lodge had given publicity to the Magdalena rumors in order to aid his friend, Secretary of the Navy Meyer, in carrying through his construction program.[55] This interpretation is strengthened when it is observed that the scare assumed formidable proportions about the time the Democratic majority in the House decided to eliminate the two new battleships for the year.[56] Action based upon such a motive would have been entirely consistent with the Massachusetts senator's record, for throughout his entire career Lodge had been actively and even militantly in favor of a big navy.[57]

Although personal motives, such as have been indicated, may have exercised some influence upon Lodge, the resolution can perhaps most fairly be interpreted as one more evidence of the increasing sensitiveness of the United States to any move that might jeopardize the Panama Canal, which was shortly to be opened. Several weeks before the Magdalena scare had received publicity, the Washington correspondent of the London *Times* noted that so great had been the changes

[52] This statement appeared in the Jordan letter previously referred to, but this reference was not published. The original is in the Jordan files at Stanford University.

[53] Both Lodge and Root were mentioned in this capacity. *New York Times*, May 22, 1912.

[54] New York *Nation*, August 8, 1912, p. 114.

[55] *New York Times*, April 6, 1912.

[56] *Literary Digest*, April 20, 1912, p. 796; *New York Times*, May 24, 1912.

[57] He had served on the House Committee on Naval Affairs.

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in the point of view of the United States since an interest in the Canal had been awakened, that "it is already evident that the Monroe doctrine is being overhauled to meet them."[58] The state of mind which this writer observed, and which enabled the Lodge resolution to pass the Senate by an almost unanimous vote, had been further prepared by Secretary Knox, who, during his visit to the Caribbean countries early in 1912, had evidenced a willingness to expand the Monroe Doctrine to meet changed conditions.[59]

Lodge was well aware of the necessity of jealously guarding the approaches to the Canal.[60] And this may explain why, after the alleged Japanese plot had been shown to have no foundation, he chose to embarrass the administration and risk possible complications with Japan by raising the whole problem anew. In the light of the available evidence, it would seem that Lodge considered the time propitious to announce a doctrine which, in the interests of canal defense, would have to come sooner or later, and that he preferred to enunciate his corollary when the public mind had been prepared for some action. He also appears to have believed that it was better to take this step when Japan was not vitally concerned, rather than to wait until it might conceivably be necessary to risk attempting to force her into a humiliating position.[61]

Once aroused, the Magdalena scare would not easily down. In 1917, apparently for the purpose of encouraging the passing of the pending conscription bill, a circular was sent to members of Congress stating that there were thousands of Japanese fishermen at Magdalena Bay armed with modern rifles.[62] Two years later, in March 1919, United States Senator Phelan, of California, wired *The New York Times:*

[58] London *Times*, February 23, 1912.

[59] *Cf. ibid.*

[60] In his notable speech of February 29, 1912 he added the Galapagos islands and Curaçao to Magdalena Bay as places that the United States would not permit to pass into the hands of a first-class power. *Cong. Record*, 62 Cong., 2 sess., p. 2603.

[61] *Ibid.*, p. 5661.

[62] Jordan, *op. cit.*, vol. II, pp. 410-411.

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> A rich Japanese steamship company has been negotiating with the California Mexican Land Company, an American concern, for 800,000 acres of land contiguous to the California border, which is contrary to the Monroe Doctrine and the Lodge resolution passed by the Senate declaring the acquisition of lands by foreign Governments and nationals in Mexico to be an unfriendly act.[63]

The Department of State, apparently without having time to investigate the truth of these rumors, sent to the American company a copy of the Lodge resolution, together with the accompanying report of the Senate and the prior report of Secretary Knox containing correspondence with the American agent, both of which documents were stated to have a bearing on the policy of the government with regard to the subject under discussion.[64] Since neither the American agents nor the Japanese wished to run afoul of the United States government, the reported transaction fell through.[65]

The action of the Department of State in the instance just noted would not have great importance had it been an isolated case, but on at least three other similar occasions, two of them in 1919 and one of them in 1924, the Lodge resolution has been invoked. These four precedents enable one to arrive at several significant conclusions. In the first place, they reveal the entire willingness of the Department of State, under both Democratic and Republican administrations, to use a doctrine which, in 1912, it had strongly opposed. In the second place, only American individuals or private concerns have received these warnings from the Department of State, but there is no reason for believing that similar action, should it become necessary, would not be taken against a foreign company. In the third place, the resolution has thus far been used only to discourage Americans from disposing of their interests in Mexico to Japanese subjects. In the fourth place, the Lodge corollary, paralleling the development of the Monroe Doc-

[63] *New York Times*, March 22, 1919.

[64] *Ibid.*, March 31, 1919; March 22, 1919. The truth of this report has been confirmed by high authority.

[65] *Ibid.*, April 1, 1919; April 3, 1919; April 4, 1919.

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trine, is apparently in the process of being enlarged in scope. The original resolution obviously had reference only to military and naval sites, particularly such strategic points as Magdalena Bay. Yet Senator Phelan and the Department of State evidently have interpreted the doctrine as referring to any place in the Americas that might be acquired by the citizens or subjects of a powerful rival nation. The holdings of the California Mexican Land company were far removed from Magdalena Bay and possessed little military value. Of the other three areas involved, two were in the state of Sonora and one was in southwestern Mexico.[66]

In March 1922 it was reported that a Japanese syndicate had secured a long-term concession in Lower California,[67] but no further notice was taken of this rumor. In 1924, stories to the effect that a large Japanese colonization project was under way in Lower California called forth a denial from the Japanese legation in Mexico City.[68] Two years later, in 1926, a colonel in the Mexican army appears to have entered into negotiations with a Japanese concern for the purpose of sharing with it a large concession near Magdalena Bay. Chairman Borah of the Senate Committee on Foreign Relations busied himself with an investigation, and the Mexican ambassador and the Japanese foreign office denied any knowledge of the affair. The rumors were quieted when the Mexican colonel announced his rejection of the offer of the Japanese syndicate.[69] In any event, these frequently recurring alarms indicate that the American people, to say nothing of the Department of State, have kept an anxious eye on developments to the south.

At the time of the passing of the Lodge resolution, if not before, it was suggested by a member of the Senate Committee on Foreign Relations that an effective way to remove any

[66] The writer has received this information from high authority, the identity of which he has been requested to withhold.

[67] *New York Times*, March 21, 1922; *Current History*, May 1922, p. 341.

[68] *New York Times*, October 23, 1924; October 26, 1924.

[69] *Ibid.*, March 29, 1926; March 20, 1926; March 31, 1926; April 1, 1926; April 2, 1926.

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possible Japanese menace in Lower California was to annex that region in satisfaction of American claims upon Mexico. This proposal received considerable publicity,[70] but nothing came of it. Between 1919 and 1931, Senator Ashurst, of Arizona, introduced four resolutions looking to the purchase of Lower California, as well as a part of northern Sonora, and although it was clear that he was primarily interested in rounding out the southern boundary of his state and avoiding difficulties over the waters of the Colorado, he dragged out the Japanese bogy and the desirability of American possession of Magdalena Bay to buttress his arguments.[71] But none of these proposals, as yet, appears to have received serious consideration.

In summary, we may observe that the Lodge resolution is not only an extension of the Monroe Doctrine but that it was designed as such by its framers. For the first time the principles of the original were specifically applied to foreign companies and to an Oriental power. It should be noted, however, that official action against foreign concerns had been contemplated several times during the preceding thirty years. Leaving out of consideration a number of minor or personal motives which to some extent may have influenced the sponsors of the resolution, it appears that on the whole the new corollary can most fairly be interpreted as an expression of American determination to safeguard the Panama Canal. One of the striking features of the resolution is that, in 1912 at least, it was entirely unnecessary. Even if Japan had attempted to secure a naval base in Lower California—and she appears to have had no inferable or demonstrable designs, direct or indirect, on Magdalena Bay — adequate representations would

[70] *Ibid.*, August 3, 1912; August 4, 1912.

[71] Ashurst said: ". . . every honorable attempt should be made to foreclose untoward possibilities . . . with respect to oriental populations that may settle and colonize Lower California. . . . The peninsula . . . is a vermiform appendix to Mexico. It is the heel—the Achilles heel—to the United States. The Mexican Republic is both unwilling and unable to police the domain, and is unable to resist aggressions from or settlements on the peninsula by oriental powers, hence a base of supplies or of military and naval operations with comparative ease and secrecy could be established among the numerous islands on its Pacific Coast." *Cong. Record*, 65 Cong., 3 sess., pp. 1089, 1090.

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doubtless have been made by the Department of State; and if these had proved unavailing, the next step probably would have been to call in the army and navy. In either case a Senate resolution would have been useless.

There are few who will quarrel with the statement of an eminent authority on international law that the Lodge "resolution gives expression to a moderate and reasonable enunciation of the principle of self-defense." [72] In fact, the declaration is so thoroughly in accord with American policy and practice that one can but wonder that four senators had the temerity to vote against it. Nevertheless, the action of the Senate would have been much more reasonable if a situation had existed to which the corollary was directly applicable. Lodge may have sincerely believed that the resolution could do no harm and might at some time in the future do good. But it is not wise diplomacy, as Taft doubtless realized, needlessly to offend friendly powers, and it is fortunate that Japan took what might have been regarded as a gratuitous affront in good part.

It would be a mistake, however, to infer that the resolution is as insignificant as the incidents which brought it into being. Some observers have been inclined to dismiss the new corollary with little more than a shrug and to point out that it never received the sanction of law by the president's signature and consequently has never been officially communicated to the other powers. But, as we have already noted, Senate resolutions do not require and never receive executive approval. And for that matter the Monroe Doctrine did not make its appearance as law, federal or international. It was merely an executive pronouncement; and the Lodge resolution is merely a legislative declaration by a small body of men that plays an important part in the foreign relations of the United States. In discussing this point eleven years later, Lodge wrote that "a resolution of the Senate adopted by an overwhelming majority was a notice which other nations could not overlook and which, as a matter of fact, they did not overlook." [73]

[72] Hyde, *op. cit.*, vol. I, p. 142.

[73] Lodge, *loc. cit.*, p. 422.

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It is too early to predict what the fate of this new doctrine, scarcely more than twenty years old, will be. Recent studies have shown that the contemporary significance of the Monroe Doctrine has been greatly exaggerated and that during the twenty years following 1823 its influence was negligible. Yet we may note that the new corollary has already been invoked by the Department of State at least four times, and that if it has not actually been incorporated into American policy, it has at least made considerable progress in that direction. We may also observe that, like the Monroe Doctrine, the Lodge resolution has gone through, and perhaps is still going through, a process of expansion. But whatever the justification for the action of the Senate, the significant fact is that the corollary exists, that foreign companies have doubtless been aware of its implications, and that if a private concern, acting as a blind for a great power, should seek to secure a base in the Americas, an instrument is ready at hand to be used, and doubtless would be used.

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MODERN MONOPOLY AS THE GENTLEMAN CROOK[1]

ECONOMICS is today only beginning to discover the fact, and the profound implications of the fact, that categories of "purely positive" analysis are intrinsically incapable of being crudely taken over by a would-be normative economics and used, without radical internal transformation, as intelligible "welfare" categories. In thoroughgoing methodological discussion, the economist is in consequence brought face to face with ultimate metaphysical issues; and is today being forced to accept, however reluctantly, the ancient truth that "positive" and "normative" can at most be ultimately distinguished only as different "dimensions" in a rational "continuum". But, in the realm of immediate practical expediency; in the administration of an existent body of law that is in very large part a heritage from the political philosophy of "individualism" and "natural right"; in the interpretation and application of this law to the functioning of an "existing" (though changing) economic system sprung from similar roots—"compromise" is unavoidable. Generally speaking, the whole hope of avoiding impasse, conflict on a grand scale, and "revolution", is in continuous and unremitting pursuit of a policy at once conservative and boldly constructive.

Very inadequately put, this means, in terms of the important subject-matter of Professor Fetter's book, that existing "anti-trust legislation" must be interpreted and administered (and, if necessary, modified) with the threefold object of avoiding the emergence of unnecessary and "uneconomic" monopolies, of discouraging and suppressing methods of "destructive competition", and of encouraging and promoting methods of "constructive competition". Clearly, this object can be expressed simply as the fullest possible realization of "constructive [or "economic" as opposed to "uneconomic"] competition". Philosophically speaking, no completely satisfactory "definition" of "constructive competition" (which is not in any sense the antithesis of, but rather necessarily *implies*, the concept of "constructive *coöperation*") is possible except through a final com-

[1] *The Masquerade of Monopoly*, by Frank Albert Fetter. New York, Harcourt, Brace and Company, 1931. xii, 470 pp. $3.75.

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prehensive synthesis of normative economics with a valid social and political philosophy. But practically speaking and for immediate practical purposes (and just because the *concrete* formulation of the "norm" is itself pervasively dependent upon "positive" analysis), it is possible to go a very long way indeed, both in the development of theoretical insight and in the improvement of legal policy, simply with the aid of the existing legal framework and the existing analyses of so-called positive economics. This, in effect, is what Professor Fetter has tried to do in the present work.

The book has six Parts. Broadly speaking, Parts I, II and III are mainly devoted to an analysis of the rise and policies of the Oil and Steel "trusts", in both their legal and their economic aspects. Part IV deals mainly with modern Trade Association developments, again in both their legal and their economic aspects. Part V contains Professor Fetter's attempt to give concrete content to the conception of "Free Markets" regarded as an economic or social *norm*. Part VI is in large part concerned to show how Professor Fetter believes this norm could be realized through the existing agencies of the Sherman Act, the Clayton Act, the Federal Trade Commission and the Courts.

The main emphasis throughout is upon the important theoretical problems raised by the spatial extension of large markets (Professor Fetter prefers to speak of "market areas"), particularly the problem of local price discrimination. The "villain in the piece" is Monopoly; and "the particular disguise that most successfully has concealed the identity of Monopoly is the basing-point practice" (p. 4). This at once explains the title, gives dramatic interest to the discussion, and imposes conceptual unity on the many aspects of a long argument. The "basing-point system", in Professor Fetter's view, is the hallmark of "monopoly", in the sense of that term which admits of differences of *degree*, and of "restraint of trade". It is this "system", now almost ubiquitous in American industry, which is the favorite and most effective device alike of the large "trust" —pursuing a policy of "price leadership" by dragooning its smaller competitors into adherence to a price policy expressly designed to deprive them of their natural geographical advantages—and of trade associations of more equal competitors united in a common conspiracy to fix prices and restrain competition under the guise of enlightened and idealistic policies of "open price competition".

Professor Fetter gives an informative and entertaining account of the use of the "basing-point" in the well-known, and now illegal,

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Pittsburgh-plus system. Under this system, as he describes it, the mill base price at Pittsburgh set the price of steel all over the country, the price at any selling point being the Pittsburgh base price plus the actual cost of transportation from Pittsburgh to that point. Broadly speaking, this applied not only to all selling points throughout the country, but also to all producing points. Thus, in effect, Pittsburgh not only decided and enforced the *general level* of all selling prices that should prevail at any given time: it also by the same device dictated the *structure* of relative local prices in such a manner that Pittsburgh was nowhere at any time handicapped in local "competition" by any necessity for "absorbing freight"—that is, making a "delivered price" at certain selling points *less* than Pittsburgh base price plus actual freight. (The reader will get lost if he fails to realize that the term "delivered price" is capable of being employed to denote (a) simply mill price plus actual freight to the selling point; (b) mill price plus a "freight application" *less* than the actual freight; (c) mill price plus a "freight application" *more* than the actual freight. The last, and the last alone, gives meaning to a "delivered price" *policy* involving refusal to sell f. o. b. mill). Under Pittsburgh-plus, any absorption of freight was practised only by other mills—as, for example, by Chicago selling toward Pittsburgh.

It would be quite impracticable, within the limits of this review, to discuss, or even to refer to, the whole structure of economic and legal interpretation which Professor Fetter builds up on the foundation of his analysis of the Pittsburgh-plus form of "basing-point system". This structure is of the first importance, not only because it raises issues of serious theoretical import for academic economists, but also because it has already unquestionably exerted a profound influence upon the activities and ideology of the Federal Trade Commission. I therefore venture to call attention to what I believe to be a fundamental ambiguity running through Professor Fetter's discussion—an ambiguity which leads inevitably into definite theoretical error of a kind that, if undetected, can hardly fail to have serious and unfortunate practical consequences. I cannot possibly give any adequate indication here of its far-reaching and complex theoretical implications. But the essence of the difficulty is as follows.

Broadly defined, and as frequently employed by Professor Fetter himself (e. g. p. 240), a "basing-point" (with respect to a particular selling point) is simply a mill whose base price and whose actual transportation costs to the selling point in question are habitually taken and added together by all other differently located producers

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who may wish to compete with the "basing-point" mill at that selling point, and so must meet its "delivered price" there. When, for more distantly located competitors, this sum is less than their own base price plus their own (higher) transportation costs to the selling point, they are clearly under the necessity, if they wish to compete there at all, of absorbing freight at least to the extent of the difference. Now this in itself, whether or not it is to be regarded as a *socially desirable* form of "competition", provides no evidence whatever of *conspiracy*, express or tacit, "in restraint of trade". It is evidence rather of "competitive" invasion of another producer's "natural territory".

So far as I can discover, Professor Fetter nowhere makes clear this fundamental distinction (or rather antithesis) between a so-called "multiple basing-point system" of this kind, in which the "basing-point" mill is simply the mill with the greatest geographical advantage; and the Pittsburgh-plus "single basing-point system", the whole significance of which is that the basing-point mill is "naturally" at a geographical *dis*advantage, but nevertheless *imposes* itself as a "basing-point" upon its smaller and weaker rivals. Moreover, I think it is fair to say that he over and over again employs language which strongly suggests, if it does not definitely assert, that *conspiracy*, and not merely a so-called "monopoly element", is present wherever "local discrimination" of this kind occurs.[1]

It is an outstanding demerit of this ambiguity that it encourages and invites a complete slurring over of the slippery but important distinction between a "monopolistic" holding up of prices (presumably "above cost of production") by a producer within his own "natural territory"; and "dumping" by him (at a mill net realiza-

[1] *Cf.*, e. g., p. 299: "It is not a mode of competition but a device of monopoly." Again, p. 412: "And remember that the use of a basing point involves a tacit *de facto* conspiracy and a whole system of discriminations." Also p. 333: "It has been abundantly shown how, under concrete conditions, this identity of delivered prices is proof that bidding has not been free, and that by agreement, express or tacit, sellers are selling on a formula, discriminating grossly among their own customers." I cannot see how this language could conceivably be interpreted—even by a professional economist thoroughly conversant with, and in entire agreement with, Professor Fetter's *normative* "law of market areas"—as *not necessarily* implying anything more than that competitors, quite unwittingly and without any common concert, are practising a form of "competition" which can allegedly be shown, by elaborate theoretical analysis, to be contrary to the public interest. The construction that would naturally and reasonably be placed upon it by any court of law is surely obvious.

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tion price which may more than cover the additional direct cost of the additional output, but could not possibly be given to all customers) in the territories of neighboring producers.[1] No adequate synthesis of these elusive opposites is possible in terms of a "static" theory of the "Austrian" type: the problem, "dynamically" conceived, requires to be handled with the more delicate and powerful instruments of a developmental economic logic of the Marshallian type. The standard exposition of the general analytical methods appropriate to this difficult and increasingly important field of economic theory is of course Professor J. M. Clark's *Economics of Overhead Costs*.

It should be clear from even these brief and quite inadequate remarks that the ambiguity to which I have referred creates a grave danger of misinterpretation—of the "findings" of "authoritative" economic analysis—which it is in the very highest interests of economic science itself to eliminate entirely, and beyond all possibility of doubt or misunderstanding. However "economically" (that is, socially) undesirable the competitive use of the device of local price discrimination may be held to be, and however desirable it may be (if indeed it is) that it should be *totally* prohibited by legal statute and enforcement through the courts; the consequences could only be deplorable in the extreme if the law and the courts should fail to distinguish clearly and unambiguously between *prohibition in the general public interest* of a certain type of competitive activity regarded as a hindrance to the optimum functioning of—or even as ultimately destructive of—"constructive competition" itself; and the *penalizing of illegal concert* among the members of a trade association to "restrain competition". Nothing could be more conducive to the spread of disrespect and indignant contempt for law among the business men of the country than the sense of injustice and injury that would unquestionably result from confusion of these issues by the courts. It is the business of economic theory as a "pathfinder" in these matters to pave the way for more adequate legal recognition of the paradox that *concerted* action by competitors may in some determinable conditions *promote* "constructive" com-

[1] The complex theory of such a situation (in which it is necessary to distinguish the case of "limited local monopoly" from the case of the presence of a small number of competitors within each "natural territory") is not on all fours with the theory of international dumping, owing to the fact that, as Professor Fetter himself shows, the boundaries of "natural territories" shift *continuously* with every change in relative base prices and in the structure of freight rates.

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petition; while, under other determinable conditions, *purely individual* "competitive" acts, undertaken without any concert with competitors at all, may have the effect of "restraining", or interfering with the optimum functioning of, true "constructive competition". The enormous and timely service which Alfred Marshall rendered to "economic theory", by uncovering in this connection the *indefinite* possibilities of constructive and highly expert economic thinking in the public service along these broad lines, has in recent years been threatened with stultification, at the very time when such service is most gravely needed, by the curious but alarming spread, among a younger and unphilosophical generation of economists, of a shallow, mechanical, pseudo-"logical" conception of economic methodology and the nature of economic science.

All this, of course, still leaves untouched the two further major issues raised by Professor Fetter's analysis and discussion: (a) whether it is *legally possible* for the courts to interpret Section Two of the Clayton Act in such a manner as to enable them to hold that, quite apart from any question of conspiracy, *all* "local price discrimination" is illegal; and (b) whether it is in fact sound economic doctrine that the norm of true "constructive competition" definitely requires that *all* "local price discrimination" *ought* to be thus eliminated by law in the public interest. While it may at first sight appear that I have reversed the natural sequence of these two questions, I shall briefly discuss them in this order.

Possibly few economists would be inclined to quarrel with Professor Fetter over his despair of finding in the language of the Act any clear formulation of intelligible economic principles. But I venture to think that still fewer lawyers would accept his suggestion that because, in the Van Camp decision, a discriminatory *higher* price was held illegal on the ground that it "substantially lessened competition" in the field of commerce occupied by the vendees; therefore "the way now seems clear to attacking any and all discriminations in prices to customers who resell the goods either at wholesale or retail", provided only that, "as a matter of tactics" by the prosecution, it is "the higher rather than the lower price" that is attacked (pp. 387-388). "It would be difficult", argues Professor Fetter, in support of this suggestion (p. 388), "to find a case where a customer compelled to pay higher discriminatory prices is not put at a 'substantial' disadvantage in interstate commerce in his competition with others in his industry in the same market, or market area, or in marginal competition between two market areas."

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Had I the temerity, I should be tempted to suggest that the intellectual calibre, not only of the Supreme Court, but even (I should tremble to add) of Congress itself, is occasionally underestimated by professional economists. Assuming we are not already committed, entirely without misgivings, to Professor Fetter's radical view that *all* "local price discriminations" should be abolished by law, is it not at least conceivable that the language of the Act, exempting discriminations "made in good faith to meet competition", was framed, however imperfectly, to try to cope with an exceedingly difficult but real problem? Said Senator Reed of Missouri (during the Congressional discussions prior to the passage of the Act):

> I do not think there is the slightest difficulty about the proposition. . . . If an independent company . . . should drop the price of gasoline at a given place and the Standard Oil Company should meet it, that would be an act in good faith to meet competition. If, however, the Standard Oil Company were to drop the price . . . so that it drove the independent concern out of business, there would not be any difficulty at all in a jury finding that they did not do it in good faith. I will undertake, in any reasonable case, any outrageous case, to get a verdict every time under that section.

"There", says Professor Fetter (p. 314), "speaks the lawyer, apparently interested not in preventing economic murder, but only in convicting (or defending) the murderer after the victim is dead." But is it really impossible that there should be a difficulty here that cannot be summarily dismissed as mere "legal sophistry"?

The undeniable "seductive charm" of Professor Fetter's position derives from its drastic simplicity. Those who are tempted to doubt alike its theoretical validity and its practical adequacy must squarely face the awkward question: if you are not prepared to abolish "local price discrimination" altogether, then just where, theoretically and practically, are you going to draw the line? For presumably no competent economist will deny either the "economic murders", or the social wastes (from cross-haulage, unnecessary instability, and so on), or the unfair personal discriminations among vendees, which result from *unrestrained and indefinite* resort to local price discrimination as an instrument of competitive rivalry.

Yet I venture to suggest that here, too, there is a theoretical ambiguity which, if undetected, must again have far-reaching and undesirable implications and consequences, both theoretical and practical. I venture the opinion that it is quite possible, and very important, to draw a perfectly definite and clear-cut theoretical line

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—which is also capable of simple and unambiguous legal interpretation and enforcement—between local discrimination which "lessens competition" through unfair personal discrimination among the vendees, and "local discrimination" which does not: between local discrimination having "destructive" aims or, at least, consequences, and "local discrimination" which may not only reasonably be regarded as "made in good faith to meet competition", but *may* also perform an actual social service in the promotion of an optimum functioning of true "constructive competition".

Under Professor Fetter's normative law of market areas, each competitor would be compelled by law to sell to all customers everywhere at a uniform price f. o. b. mill. Each competitor's actual sales territory would then exactly coincide with his "natural territory" as defined at any moment by the freight rate structure of the carriers and the relation of his mill base price to the mill base prices of competitors in contiguous "territories". All cross-haulage, all local price discrimination, all freight absorptions, all variations in mill net realization prices, all overlapping of sales territories, would thus be swept away. Direct competition would then only occur (a) between closely contiguous mills whose combined capacity was necessary to serve the needs of a much wider common surrounding territory; and (b) on the thin and shifting lines of demarcation between natural territory and natural territory. The national market area would be welded into a single competitive market through the operation of indirect competition, of the pressure of territory upon territory through the medium of base price changes.

There can be no doubt whatever that this is a valid *first approximation* to the formulation of a normative theory of "constructive competition" in its territorial aspects; and that Professor Fetter has rendered a very high public service indeed in so clearly and forcefully calling attention to it. Compared with the tangled structures of unrestrained local and secret personal discriminatory prices which some industries have presented in recent years, this is unquestionably indicative of the road to economic health. But is it more than an initial approximation to the norm of "constructive competition" in its territorial aspects? Is it the one and all-sufficient Golden Rule? I fear that, as always happens in these cases, more prolonged and minute scrutiny must inevitably blur and complicate the bold and simple outlines of the first sweeping survey; and that, even after full account has been taken of the important fact that the complications which can be practically justified as politically and socially

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expedient always fall far short of those that can be "defended" in terms of refined theoretical analysis, vital and necessary complications, both theoretical and practical, will still remain.

The important qualification which I would here urge as essential to a valid economic and legal interpretation of the provisions of the Clayton Act is as follows.[1] It is both possible and easy to make a clear distinction between (a) "local price discrimination" (practiced in a competitor's "natural territory") which merely *meets* at the selling points involved the competitor's prices there as determined by adding together the latter's mill base price and his actual freight costs to the selling points; and (b) local price discrimination which *undercuts* the competitor's non-discriminatory prices within his own natural territory. To those who have not given this matter much thought, this distinction may appear neither theoretically attractive nor practically important. Yet I think a little impartial consideration will show grounds for believing it to be both.

The primary point to notice about this distinction is that the former type of "discrimination", though it of course results in a variety of mill net realization prices to the "discriminator", *does not of itself alter the structure, of relative local "delivered prices" to buyers, that would prevail in the absence of such "discrimination"* —so that it cannot in itself be accurately said to introduce unfair discriminatory prices tending "substantially to lessen competition" among the vendees. It is true that, in so far as cross-haulage is thereby introduced, the industry as a whole has to meet increased total carrying charges which ultimately fall on consumers *as a whole*. But there is not, properly speaking, any invidious "discrimination".[2]

[1] Professor Fetter speaks with some impatience of a number of "useless and troublesome qualifications which clutter up the second section of the Clayton Act" as "mere tautologies" (pp. 382 and 390). But it *might* be a mistake of narrow professional vanity to assume unquestioningly that the insertion of these qualifications merely demonstrates a confused "lay" lack of understanding of "economic theory", and not a ubiquitous form of legal caution—conceivably not without its uses, however irritating to the "layman".

[2] *Fresh acts* of invasion of this kind would of course be most likely to be initiated during periods of depression involving idle overhead. They would thus not occasion a specific raising of prices to the "home" consumer to "compensate" for the "cost" of the freight absorptions involved. There would be merely an attempt to get more business for idle plant at competitors' expense. It is of course this practice which, when the extent of the discrimination is uncontrolled, is one of the most wasteful and pernicious features of modern "competition". Even when restricted in the manner above suggested, it is admittedly open to serious objections. But see below.

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Nor would these general costs of the practice stamp it as socially undesirable *if* it could be shown that they were the necessary price of a more than counterbalancing social gain. I shall not here attempt to strike a balance, but content myself with pointing out that there do appear to be real attendant social gains.

First, the existence of a fairly broad band, instead of a narrow hair-line, separating "natural territories", may very well make for keener, healthier and more efficient competition (which, in many if not all commodities, is not *entirely* a matter of price) *throughout* the natural territories. Slovenly and inefficient service would invite considerable extension of this form of local price "discrimination" by alert and expanding competitors. The legal adoption of Professor Fetter's norm would eliminate this wholesome threat, whose efficacy lies largely in its uncertainty and ubiquitousness. Secondly, the dividing line between natural territories frequently shifts, not only through the incidents of base price competition, but also through changes in the freight rate structure. It seems rather unreal to suppose that customers in the affected belt should instantaneously and automatically "change hands" as a result of such freight rate changes.[1] Thirdly, the "dynamic", or rather organic, functioning of the Principle of Substitution (which lies at the very heart of any

[1] This matter cannot be adequately discussed without developing the theory of base price competition in a large market area. I rather think the reader would gather from Professor Fetter's general discussion that base prices in different territories would reflect differences in marginal production costs in those territories. But I should myself argue that, under realistic conditions of industrial competition—particularly on certain assumptions as to capacities of plants, geographical distribution, cyclical fluctuations in demand, and consequent recurrence of idle overhead—*continuous* "short period" competitive tactics in the struggle for territory would be a dominant "long period" influence in reducing or even eliminating "long period" differences in marginal production costs as between contiguous territories—in so far, that is, as these cost differences might give rise to differences in *price*, and not merely to those differences in *return*, to various grades of entrepreneurial ability and so on, which are a familiar feature of a simpler competitive theory that takes no explicit account of spatial extension of the market. But the matter is very complex.

In the extreme case of strong inter-territorial competitive pressure by large plants, resulting in *continuous equalization* of base prices, any temporary inter-territorial discrepancies among base prices would of course be unstable; and, in the complete absence of "local discrimination" as illegal, borderland customers *would* automatically change hands with changes in the rate structure. The phenomenon is not confined to this extreme case, which is here cited for simplicity.

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really comprehensive and penetrating conception of the optimum functioning of "constructive competition") *might* be very seriously impeded by a rigid adoption of Professor Fetter's simple norm—and in ways which would be the more important because they would lie well below the surface and might easily be cumulative in their socially wasteful consequences. This is a theme in itself. I can only barely suggest (a) that, quite apart from the violent shock to the existing localization of industry, which might well be occasioned by the initial adoption of the policy, the "industrial map" of the country might in consequence be *permanently* redrawn along socially undesirable lines;[1] and (b) that vigorous and rising firms undergoing continuous expansion of scale might well be deprived, during their crucial youthful period, of an essential means of adequately rapid expansion. It should be noted that effective penalization, of local price discrimination carried beyond the limit here suggested, would afford very considerable protection indeed to rising and enterprising concerns making their way against older and more sluggish rivals; since the latter would be precluded from using their greater financial staying power to destroy the newcomer by ruthless price *cutting* in his locality.[2]

To my mind, the most serious counter-objection to all this is two-fold: (a) that even this restricted form of invasion of the natural territory of another would be liable to provoke that other, in order to repel it, to resort to price discrimination *within his own natural territory* at the threatened points; in which case it would be necessary to determine whether the "meeting" of this reduction by the invader would still be merely "discrimination in good faith to meet competition;" and (b) that, even if this did not occur, the recurrence of cyclical depressions, combined with the strong tendency to hold tenaciously to markets already won, must inevitably make the process of mutual interpenetration of natural territories a *cumu-*

[1] The reader can construct for himself various hypotheses as to (a) elasticity and localization of demand, (b) localization of productive capacity, and (c) the broader underlying reasons for each; which, taken together, would make it highly undesirable, in such circumstances, to preclude certain producers from absorbing freight to distant centers of demand in order to meet regional prices there. It does not *necessarily* follow that, in such circumstances, their "home" price is "too high".

[2] It is more difficult, though not impossible, to conceive of really "savage" methods of discriminatory competitive warfare conducted with weapons other than price. Presumably any really serious devices of this kind are not inherently unsusceptible to statutory suppression.

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lative one over long periods—with consequently extremely serious and increasing wastes in growing distribution costs.

These objections unquestionably have weight: but only the incorrigibly "abstract" type of "theoretician" will affirm that they are *necessarily fatal*. In the first place, it must not be forgotten that, even if we yield to them, we do not thereby escape the alternative social costs (of the kind just indicated) of doing so; and that these *may* be exceedingly heavy. We may have avoided the Devil—but not the Deep Sea as well. In the second place, it is very difficult to assess the *real* weight of these two objections. The first, being of a "mechanical" character, is in my view much the *less* serious. Its adequate theoretical discussion would of course require separate treatment of the two possible cases of "limited local monopoly" and the presence of direct competition within "natural territories". I can only remark here, first, that there would seem to be no insuperable difficulty in the way of legally prohibiting local discrimination by producers *within* their own natural territories—or of strongly discouraging it, except in exceptional cases, through the group pressure of (enlightened) trade association "public opinion"; and, secondly, that, whatever the theoretical possibilities (assuming no legal control of discrimination) if each territory were occupied by a monopolistically-*minded* single producer, there would, in the presence of direct intra-territorial competition among even a few competitors, be little if any practical likelihood that the pressure of territory upon territory, through base price competition, would be appreciably hindered by the strictly limited type of "discrimination" which I am assuming to be permitted to competitors.[1]

The suggestion that, if "discrimination" were limited in the way

[1] It would involve a pathetic and revealing misconception to suppose that the problems here indicated are in some obscure sense the narrow professional preserve of academic "economists". The economist has indeed an important part to play. But, realistically conceived, these problems can only be brought within sight of "solution" through steady improvement in the quality and integrity of a diffused organic system of *social self-control*, with the state as the *ultimate* guardian of liberty and order. Many economic "theorists" are apt to forget that a "device" of "control" is not condemned by its liability (or, for that matter, chronic susceptibility) to abuse; that the *elimination* of abuses by law is inherently and forever impossible; and that it is naive and ridiculous to visualize the "economist" as a *deus ex machina* providing a central government with colorless "analyses" to aid it in the skilful manipulation of a mechanical concourse of (unregenerate) human puppets. "The Mecca of the economist" (said the greatest of all economists) "lies in economic biology rather than in economic dynamics."

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proposed, the path would still lie open for the slow but inevitable secular spread of mutual interpenetration of sales territories, is on the face of it more serious. But, here again, there are at least strong countervailing considerations; and also, perhaps, an unproved normative assumption. I can make only two general remarks. First, the supposed progressive spread of interpenetration of sales areas cannot be assumed to be a phenomenon with no "natural" limits in *any* industry. This is again a theme in itself. Secondly, even if, in the case of some industries, permission to *meet* competitor's "delivered prices" should result in the *complete* interpenetration of sales territories, it does not necessarily follow (from the standpoint of *any* "competitive" theory) that the self-evident social costs of cross-haulage are not more than counterbalanced by attendant social gains.[1] It is quite impracticable to develop either of these considerations here.

While, therefore, there is, "in theory", no difficulty about drawing a "precise" line of segregation between local discrimination of a kind which is pretty clearly socially undesirable, and a form of "local discrimination" which it is at least possible to regard as not only "justifiable" but socially beneficial; and while there is likewise, so far as I can see, no great practical barrier to the legal enforcement of this distinction; nevertheless, no cast-iron *demonstration* of the *real* validity (or invalidity) of this distinction can be extracted from even elaborate realistic discussion of its implications. The upshot is thus in some respects "inconclusive". But this fact should not be regarded as either surprising or disconcerting.

What is both surprising and disconcerting is the comparatively small number of students of economic science who seem to attain to adequate understanding of the truth that the deeper purpose of much elaborate economic analysis (even when bolstered up with curves and mathematics) is to develop an informed wisdom and a sound judgment as aids to the making of major social decisions which can

[1] I suspect that this extreme case would seldom occur in practice apart from (a) domination of the national market by a "trust"; or (b) reasons of one kind or another, intelligent or unintelligent, for differences of opinion among consumers everywhere as to the relative merits of different "brands" of an identically priced article. Incidentally, I have not discussed at all the perplexities that arise when we leave the field of thoroughly standardized commodities. Here also there are considerations on both sides; but the difficulty of formulating briefly any intelligible general basis for discussion of the issues involved prevents further comment here. In strict theory, the whole question of *socially* desirable discrimination by "monopolies" is involved as an element in an even more complicated situation.

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never rest securely upon precise "demonstration". Failure to grasp the full implications of this is directly responsible for the twin curses of present-day economics: on the one hand, a callow scorn for "theoretical refinements" as "unrealistic" and incapable of "verification" or "application"; and, on the other, an equally callow belief in the possibility of exact and authoritative demonstrations—of more or less immediate practical utility and applicability. We of this generation shall be called upon increasingly and as never before to make sweeping practical decisions on a bewildering variety of tremendous social issues, involving radical and irreversible modifications in the social structure, without the slightest possibility of meticulous assessment of the network of "costs" and "satisfactions" involved. It may well be that the mere avoidance of irretrievable disaster will be sufficient cause for thankfulness and ultimate self-congratulation. And it may well be, too, that only in the courage to embrace certain drastic simplicities—provided they are not too foolishly selected—will our hope of salvation lie.

So it will, I trust, be amply clear that it is in no niggling or carping spirit that I have sought to reveal a few of the fathomless complexities that underlie the sharp outlines of Professor Fetter's stimulating pioneer analysis; and that it is no mere desire to "differ" that leads me to question seriously the practical wisdom of wholehearted adoption, and rigid incorporation into law and judicial precedent, of his basic normative "law of market areas". While making no secret of my own views in this matter, and while definitely denying to his formula any "theoretical compulsion", I have not proffered any alternative formula claiming a similar "compulsion" of its own. I would merely, with all respect, ask Professor Fetter to give very careful consideration indeed to the very complex and intriguing implications of three intimately related paradoxes: (a) that even if, in his final judgment, it is still on balance socially desirable to adhere uncompromisingly to his radical form of the normative "law of market areas", yet it must surely be admitted that the *spontaneous* "actualization" of this norm in any industry, without the stimulus of unambiguous and effective legal compulsion, would suggest very strongly indeed an underlying *conspiracy* among competitors to allocate territory and control prices;[1] (b) that a decision to adhere to

[1] In a way in which, in my view, a "multiple basing-point system", involving simply mutual invasion of natural territories, definitely does not. Even the very inadequate foregoing discussion strongly suggests that scrupulous and complete avoidance, under all circumstances, of *all* freight absorptions, by all competitors, could only occur at the cost of continual inconveniences (of a

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the most drastic form of the norm, and to prohibit even the milder form of "local price discrimination" for which I have tried to make a case, cannot be based on individualistic reasoning of the "unfair personal discrimination" type (since the milder form of "discrimination" is *not* atomistically discriminatory), but rests, in the last resort, on a general judgment as to the most expedient political method of securing *maximum total economic welfare*; (c) that the social costs which are (roughly and hypothetically) estimated *and accepted* in making such a decision involve a deliberate sacrifice, in the interests of *stabilization* of the total social order, of some of those very elements of elasticity, rapid organic growth, and (perhaps) freedom of choice, which have been traditionally cited as among the most fundamental and vital advantages of a "free competitive system".

The perspicuous and informed reader will perceive that, in the contemplation of these paradoxes, we are gently but remorselessly translated into the vast altitudes of Economic Relativity. Returning abruptly to earth, and to Newtonian Economics, I will beg leave to reiterate in conclusion (a) that even if we were courageously (or recklessly?) moved to accept Professor Fetter's norm, we could not fairly hold that it already has Congressional sanction in the provisions of the Clayton Act; (b) that the milder modification of Professor Fetter's norm, which I have here tentatively defended as good normative economics, seems to have the novel merit of giving to the much discussed language of the Clayton Act a degree of economic intelligibility and rationality at least sufficient to startle some simple academic souls, and (c) that it is today of really grave and unquestionable practical importance (alike in the interests of the economy itself and of the prestige of economic science) that we should not wrongfully and on a wholesale scale seek to penalize business men *for illegal conspiracy*, simply as a means of introducing more effective legal instruments for the suppression of modes of competitive rivalry which involve no illegal concert, but which we nevertheless no longer believe to be compatible with the public interest.

R. W. SOUTER

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"short-run" type) to individual competitors; and that a quite spectacular universal willingness to endure these without protest or lapse from grace could presumably only be accounted for (human nature being what it is) on the ground of a *very effective* underlying agreement to soften the rigors of *base* price competition.

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REVIEWS

Conflicts of Principle. By ABBOTT LAWRENCE LOWELL. Cambridge, Harvard University Press, 1932.—vi, 161 pp. $1.50.

"This little book", says the former president of Harvard in the Preface, "contains no facts not perfectly well known to everyone; and it avoids expressions of opinion on all matters whereon men differ in opinion." Perhaps no one wonders what is left to say that is worth saying. But there may be a real service in calling attention to the obvious when the object is to illuminate its meaning or to drive home a lesson. The lesson which President Lowell expounds is on the surface the lesson of tolerance, and beneath it that of the need for discovering in practice the true course between opposing or antithetical principles, each claiming absolute validity under its own ideal conditions but each requiring qualification by the other in the concrete situation. These the author names "conjugate principles". "Such are *laissez faire*, and compulsion for the common welfare; national patriotism, and international coöperation; centralization in government, and local autonomy; dealing with delinquents for their own benefit, or for that of the community."

In short, President Lowell's own principle is a modern version of Aristotle's doctrine of the mean. And he makes out a clear case for the discriminating judgment which refuses to take blind refuge in abstract principles regardless of limits and conditions. It is the uncompromising conflict between unconditioned opposing claims of right and wrong which gives to many a controversy both its bitterness and its futility. No attempt is made, however, to show how a consideration of limiting factors may lead to a better solution. Sometimes it is suggested that the solution is some compound of or some compromise between the "conjugate principles", as in the opposition between *laissez faire* and governmental control. Sometimes it would even seem as though the solution were to be based on geographical limits, as in the opposing race attitudes of North and South toward the Negro. Sometimes it looks as though one of the two conjugates were tenable under the conditions of a particular civilization but not under those of another, as in respect of the practice of slavery (p. 7).

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The point is that, as Aristotle himself said, the application of the principle is hard, and this study would have been more realistic if the author had shown that it is by no means applicable to every clash of opposing doctrines. It is not at all certain, for example, that in our present world there is any real opposition between "patriotism" and "humanitarianism". Possibly the goal is a harmony, not a compromise, between them. Again, democracy appears as one of a pair of "conjugate principles", suggesting that the way out is some compromise between it and its opposite. But this position depends on a definition of democracy which makes its major premise that all men are born free and equal (p. 56). If instead we define democracy as a political system in which the right to control the government is vested in the governed, then we either accept the principle or reject it, and the assumption is by no means clear that we should instead resort to "compromise".

President Lowell seems to have felt that after all his doctrine of "conjugate principles" is insufficient, for he ends with a curious chapter—in the sense that its relation to the others is distinctly ambiguous—entitled "The Teaching of Christ". Here we are told that "not only do Christ's sayings sometimes appear too absolute, too unconditional, but they are not seldom contradictory". This was because "Christ was setting forth and illustrating moral precepts, not framing a code of laws". And this "is a reason why the effect of His teaching was at the time so small, and has ultimately proved so vast and enduring."

R. M. MACIVER

Financial Condition and Operations of the National Government 1921-1930. By W. F. WILLOUGHBY. Washington, The Brookings Institution, 1931.—xii, 234 pp. $3.00.

In these days of shrinking revenues and mounting deficits, this volume is cheerful reading. It tells the story of federal finances during the glamorous decade when Andrew William Mellon was secretary of the treasury. The sleek battalions of figures which Mr. Willoughby parades before his readers make a striking pageant. One is tempted to praise Mr. Mellon with the words of Sir George White when he described Edward West as "the best commissariat officer since Moses". Whatever may be the final verdict of the future historian when he weighs Mr. Mellon's accomplishments against his opportunities, Mr. Willoughby's grand consolidated treasury balance sheet for the ten years reveals, on the face of the figures, a remarkable

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achievement. Starting in 1921 with a "deficit (total assets over total liabilities)" of $–10.6 billions, the figure steadily drops each year by at least a half-billion dollars and stands at $–3.8 billions at the end of 1930.

It was not Mr. Willoughby's purpose to make a critical appraisal of the financial record of Secretary Mellon. He does not pass judgment on the question as to whether, in view of the circumstances, the record should have been even better, whether tax rates should have been maintained at a higher level, or whether the credit policy contributed to the débâcle of recent months. Such questions are left to others. Mr. Willoughby felt himself sufficiently engaged with the more narrow task of restating the treasury accounts so as to bring out more clearly the financial operations and condition of the federal government during this period and in commenting upon the resulting tabulations.

That such a restatement of the accounts is desirable, Mr. Willoughby has no doubt. "Though the national government, following the adoption of its budget system, has done much more than most other governments in the way of preparing special analytical and informative statements, it still remains true that it has by no means prepared the statements that are necessary in order to make known its real financial condition and its real income and expenditures, and that many of the statements that it has prepared with this end in view are defective and at times absolutely misleading" (p. 5). These are strong words but they are justified. While it is true, as has recently been said by a high official in the treasury, that "any system of accounting for affairs as complicated as those of the federal government requires some experience and knowledge on the part of the reader", the fact remains that much more experience and knowledge are required than should be necessary.

Moreover with the accounts left in their present form, no amount of experience and knowledge on the part of the reader is sufficient to supply their deficiencies. Even Mr. Willoughby, who in this volume certainly demonstrates experience and knowledge of the highest order, is unable with the data available in the accounts to give clear and satisfactory information on such an important point as what portion of the government expenditures went for capital outlays. He states that such information is available for the government as a whole but, surprisingly enough, fails to present a tabulation of the data for the period. It is impossible to give the customs receipts in detail (p. 86). Interest is not separated from repayments of principal in the case of

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receipts from carriers. He cannot find in the accounts the dividends received on the stock of the Federal Land Banks and the Intermediate Credit Banks (p. 89).

Taking the data available, Mr. Willoughby performs prodigious feats of reclassification and rearrangement. He sends this vast array of figures through complex evolutions and draws them up in new and illuminating formations. On the income side revenue proper is separated from realizations upon assets, and extraneous agency transactions are segregated. On the expenditure side, governmental costs are distinguished from non-government costs in a way never before accomplished. An operating statement is drawn up comparing income and expenditures by years. Finally a treasury balance sheet is evolved which is extremely interesting. One wishes that the facts had been at hand which would have enabled Mr. Willoughby to complete the picture with a statement of the government's complete property account as distinguished from mere treasury assets.

The work has been done with meticulous care. The reviewer noted few slips and those of a minor and superficial character. Misprints are noted on page 17 (line 12) and on page 69 (line 35). A reference is missing in the footnote to Table 16. Chart 15 is obviously not drawn from Table 34 as stated.

By furnishing this exposition of the financial statistics of the national government for the decade ended June 30, 1930, the Brookings Institution has stimulated an appetite for more. It is hoped that the technique used by Mr. Willoughby will be applied, perhaps in a series of annual bulletins, to the figures for the period through which we are now passing. Whether or not this be done, students will continue to be grateful for this book which, in addition to throwing a flood of new light upon the decade studied, supplies a valuable guide to that fascinating and cryptic document, "The Annual Report of the Secretary of the Treasury on the State of the Finances".

ROBERT MURRAY HAIG

The Society of Nations: Its Organization and Constitutional Development. By FELIX MORLEY. Washington, The Brookings Institution, 1932.—xxii, 678 pp. $3.50.

This book is what might be expected from such a combination of talents and experiences as Mr. Morley possesses. He is a Rhodes scholar who became a journalist, and then, as a Guggenheim fellow and under the direction of the Brookings Institution, returned to

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scholarly effort. Both as a journalist and as a scholar he worked at Geneva, with rare opportunity to study the League long and closely. This book presents with scientific accuracy information concerning the organization and constitutional development of the League, but it presents it in the vivid and sometimes magnified style of the journalist. It is not so complete a legal commentary as those of Schücking-Wehberg or Ray, but it presents a much better picture of the actual League than either of these, or perhaps, than any other book concerning the League. It is not as full or detailed a work as that of Howard-Ellis, but it is better organized, equally as penetrating in its analysis, and easier reading—which is distinctly a compliment, for the Howard-Ellis book is an excellent work.

This is a book of 678 pages, with appendices containing the Covenant, and an outline of the Committees and Commissions of the League which does much to explain the complex organization of that body. It is divided into two parts: The League in Preparation, and The League in Being. Under the first heading, 223 pages are devoted to the origins of the League, which may seem a disproportionate amount in view of other works. It is of value, however, in that it compares the earlier sources, and especially in that the author frequently traces the results of early debates into the actual situation today, thereby adding much to the understanding of League development. Noteworthy examples of this are his discussions of the separation of Articles 10 and 19, and of the famous "gap" (Article 15, § 7), which latter, he remarks, "contributed appreciably to the movement for the definitive outlawry of war" (p. 134).

The first chapter of Part II is devoted to the Technical Committees or Organizations. This order is explained by the belief that the League survived its early weakness because it made use of prewar and war experience in international administration, and thus developed a coöperative international administration based upon existing national authorities. Chapters viii and ix deal with the Secretariat. We see nationalism penetrating into the heart of the international civil service, yet it survives, the balance wheel in the mechanism of continuous international consultation. The Secretariat is regarded as a civil service in its lower grades, and as a political cabinet in its upper grades. Through its formation of policies accepted by the Council the Secretariat fills the lack of executive officers in the League. The next two chapters treat of the Council and its tendency to become a cabinet, but without responsibility—though an increasing responsibility to the Assembly is noted, and even to the Secretariat.

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The next chapter, too, deals with the Council, in its relation to the Sino-Japanese dispute, thereby affording a surprisingly up-to-date account of that controversy, and a good picture of the League peace machinery. Chapters xiii to xv consider the Assembly, which is clearly Mr. Morley's pet. The growth of its power is regarded as the most important constitutional development of the League; it is traced out in interesting detail in the evolution of Assembly control over finances. Incidental results of this struggle are the Assembly claim to interpret the Covenant, and the establishment of permanent committees, thus making the Assembly the continuous body which the makers of the Covenant feared it would become. In the Assembly action in the Sino-Japanese affair—a chapter which rounds out that controversy—the culminating point is reached, when the Assembly makes itself a permanent body, and the Council is practically reduced to be its committee. Mr. Morley also adduces evidence to show the legislative character of Assembly action.

An executive Secretariat, a responsible Council, a legislative Assembly! For a body usually called *sui generis*, this is a remarkable subordination to the ordinary nomenclature of political science. We shall wait upon the result; but Mr. Morley has an engaging enthusiasm in the presentation of these views. There are many intimate glimpses of how the League works, such as the formulation of the reply to Costa Rica concerning the Monroe Doctrine. The League is regarded as a confederation, but as now crossing the threshold of development as a superstate (pp. 601-602). The stage is set for global instead of strictly international coöperation, but an effective society of nations does not presuppose a superstate. The League is not trying to destroy nationalism, but to save it from deterioration. And if Mr. Morley's concluding words seem a little inconsistent, he is nevertheless giving us a good picture of the actual situation.

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Theory of the Credit Standard. By HANS GLÜCKSTADT. London, P. S. King & Son, Ltd., 1932.—xv, 345 pp. 15s.

This volume (whose author is a member of the contemporary school of Scandinavian economics, which has contributed so largely to the literature of money and banking within the past few years) is an effort to develop a basic conception which, Dr. Glückstadt believes, must underlie and shape any currency standard of the future. The basic thesis of the presentation is that the older commodity money

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has practically been superseded and that in place of it the world at large is now groping toward a new kind of standard of value. This standard of value will not be satisfactory, or even workable, until a scientific base is furnished by the substitution for the commodity standard of a new credit standard of some kind with technical arrangements for adjusting it constantly to metallic value. The outcome of the book is to establish a "new regulating principle for the credit system, the totality principle, and a new mechanical regulator for money—called the automatic reserve system". A part of the treatment is mathematical. In appendices, an additional set of calculations is furnished, partly by way of substantiating conclusions reached in the text, and partly for the purpose of indicating methods of reasoning that have been applied throughout.

As already indicated, the center or nucleus of thought in the book is what the author calls the "totality theory", by which he means a theory based on the conception that "the industry of money, similarly to any other industry, should produce in accordance with the requirements of the market". Any kind of production, in short, is an "industry"; and a program of production for the money industry of the world should, therefore, be established. Put in another way, what the author suggests is that the supply of money should be regulated in such a way as to bring about a correspondence between the strain that is brought to bear from the side of demand, and the resistance to that strain which is furnished from the side of supply. This is all very vague, and when the author's practical teachings simmer down to actual policies, it would seem that what the author desires to do is to "establish a totality index" which will serve as a measure of the purchasing power of money. This index should be used in quite the orthodox way to determine how much debtors should pay to creditors in the settlement of their obligations. Supposing that a satisfactory totality index could be developed, the apparent conclusion to be drawn from the author's teachings is that it would not make a very great difference what practical unit of money might be employed, provided that its exchange value were regulated in accordance with the "totality index"—whatever that might be. Complete convertibility of the standard of value into commodities, and consequent stability of purchasing power, would furnish the medium through which the actual application of the new system would be developed. The means of giving the holder of gold "convertibility into commodities only, was provided" under the past suggestions for a standard of money. However, "the value of gold is as unstable

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as that of any other commodity". Hence direct convertibility of the standard into commodities "must always be preferred".

It would be impossible to go into the various calculations and courses of reasoning employed in this book or to sketch the processes by which the author develops his totality index. Critical analysis of them may be left to the statistician and mathematician. The general reader in the field of money will come to the conclusion that the credit standard suggested by this author is the same kind of alternative to metallic money which has been recommended by tabular standard of value advocates for many years past. As such, it is subject to all of the criticisms and difficulties to which the tabular standard of value is subject. The logical fault committed by all such advocates is their failure to recognize the essential purposes of money, and their apparent assumption that something which satisfies entirely new purposes will be readily accepted by those who think that they need something of a very different kind. Practically, therefore, the proposals set forth in *Theory of the Credit Standard* are of little or no interest.

Viewed as a piece of scientific reasoning, Dr. Glückstadt's work is more interesting. There is a good deal in his computation of the totality index that affords interesting commentary on the works of the current English school of economists. It would seem to the present reviewer that these contributions might well have been embodied in an article or two in some scientific publication, and that no such extended treatment of them was really called for.

H. PARKER WILLIS

Diplomatic Relations between the United States and Japan: 1853-1895. By PAYSON J. TREAT. Stanford University, Stanford University Press, 1932. 2 vols.—xii, 593; ix, 600 pp. $10.00.

The twelve hundred pages under review command the attention of several groups: (1) those directly interested in the development of American relations with Japan and the Far East from the first visit of Perry (1853) to the close of the Sino-Japanese War (1895); (2) those who desire to know just how, in the far-off long-ago, before the days of telephones, typewriters and all the variant methods of quick communication, two foreign offices transacted business; (3) and those who, not satisfied with the present methods of writing diplomatic history, are casting about for a new method and technique.

The first outstanding characteristic of Professor Treat's book is its originality as to method. He selects a period of forty-one years,

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adopts an almost rigid chronological arrangement, and records the day-to-day, or month-to-month, communications between Japan and the United States. It is as though he had taken a desk in the Department of State in 1853 and kept a journal of what came in from and what went out to Tokyo until 1895, and the comments to which the exchanges gave rise. The result is a faithful picture of such men as Marcy, Seward, Fish, Evarts and Adee at work at their desks. It happens that the picture shows them working on a Far Eastern question, but those were the ways they worked on any problem in any part of the world. If we had a dozen more such monographs, covering in similar detail the work of the Department of State for the same years with such units as Great Britain, France, Russia, Germany, the Mediterranean basin, the Near East, the Caribbean, Brazil, Argentina, the west coast of South America, Canada—the list may be consolidated, or broken down still further—it would then be possible to state American policy with a precision not now possible. Professor Treat has struck out on a new trail which seems to the reviewer of great significance in the study of American diplomatic history.

Professor Treat has been sparing of generalizations, perhaps too economical of them to sustain the interest of the casual reader through so many pages. Underlying his narrative are, however, four principles which he summarizes in his preface: the constant friendliness of the American government; the equally eager desire of Japan to deserve this friendship; the remarkable aptitude of Japanese diplomats in following the practice of western diplomacy; and Japan's amenability to "kindly and constructive criticism". These generalizations are well sustained by the facts presented. The period covered was the era of good feeling between the United States and Japan.

Now as to the new material: it is almost all new, in the sense that no one else has ever given us such a detailed narrative. The first eleven chapters were initially published as the well-known Albert Shaw lecture in 1917, *Early Diplomatic Relations between the United States and Japan, 1853-1865*. For inclusion in this new study these chapters have been revised and the author has taken advantage of the Department of State archives to which he had unrestricted access. This revised material takes up only 268 pages; the balance of the 1200 is a digest of the correspondence from 1865 onward, a chapter to a year, with copious notes to published documents and secondary sources. Professor Treat finds that in *Foreign Relations* for this period only about one-tenth of the instructions were published, and only about one-seventh of the dispatches. Furthermore he records

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instances where the correspondence was edited by the fine hand of Mr. Adee to convey impressions which were, to say the least, misleading (I, 567). Mr. Adee was a clever man, sometimes a great man, but he was without what might be called historical conscience. Treat writes with restraint. One wishes he had let himself go a little more in some of the chapters, as, for example: "Shirt-Sleeves Diplomacy, 1870"; "The Iwakura Mission, 1872"; "Richard B. Hubbard, Minister, 1885"; and "The Incomplete Treaty of 1889". Under these unemotional headings are recorded some very colorful events which have great dramatic qualities. The author shuns the temptations of imagination and stays close to the rôle of a reporter who, to paraphrase the words of Hay to Nicolay, is like an everlasting angel—who knows everything, judges everything, tells the truth about everything, and doesn't care a twang of the harp about one side or the other. The writer must have found in the records many items, omitted from the book, which are no more important to history than a dash of seasoning to boiled beef. No doubt some one else will come along and embroider the tale—and very likely omit the credit line. Meanwhile Professor Treat may have the satisfaction of knowing that, while adhering to the best traditions of American scholarship, he has done something truly original, and written his name where it cannot be overlooked long after this generation is gone. This particular piece of work will not have to be done over, and the job was well worth doing. It may be hoped that the monograph will be the inspiration for many more, planned and executed on similar lines.

The only broad criticism which the reviewer will venture is that the three-power intervention in 1895, at the close of the Sino-Japanese War, is worthy, because of its importance both in European history and in current events in Manchuria, to have been lifted out of the concluding chapter of the book and treated by itself. Furthermore, in discussing this action, it is a matter of some regret that Professor Treat did not more closely relate the information obtainable from the archives of the Department of State to the wealth of documentary material now available in *Die Grosse Politik*, and in some of the German monographs such as Francke's *Die Grossmächte in Ostasien von 1894 bis 1914*. The intervention of the Dreibund presents, on the one hand, the picture of the European forces which underlay the struggle portrayed by Treat, and, on the other, shows forth the European influences which have bedeviled Far Eastern politics ever since and in the present day.

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Our Times. Volume IV: *The War Begins: 1909–1914.* By MARK SULLIVAN. New York, Charles Scribner's Sons, 1932.—xx, 629 pp. $3.75.

This fourth volume of Mr. Sullivan's unique work, which is planned to cover the first quarter of the twentieth century, contains the same fascinating mélange of the facts of history and the "makings" of history as characterizes the preceding volumes. One is reminded of the colored preacher's sermon which was divided into two parts, first those things which were contained in the text and second those things which were not contained in the text—"and, brethren, we will wrastle with the second part first".

The first eleven chapters, or approximately half the volume, deal with a great variety of topics to illustrate the interests, serious and trivial, which absorbed the attention of Americans in the years just preceding the World War. The author holds up the mirror to our restless nature and turning it this way and that, as his unrestrained curiosity prompts him, catches the reflection at a hundred angles. There is a chapter on Ford and the tin Lizzie jokes; another on Carnegie as a type of the age of push and profit. Shaw, Freud and Omar Khayyam are discussed as imported stimuli disturbing our complacent conventions and creeds. The songs and dances of the day are reproduced with snatches of the musical scores. New words and slogans, new management in business, new fashions in women's clothes, new fads in reform, new departures in art, architecture, literature, journalism, technology, salesmanship and a score of other activities are commented on in a paragraph or a section, without apparent rhyme or reason in the selection—but with a vivacity, a perspicacity, a mellowness and humor in the treatment of each topic that keep the reader in constant anticipation of the surprise which the author has for him in the next chapter, and even on the next page. Such a piece of work is as impossible to "review" as a kaleidoscope.

With the twelfth chapter Mr. Sullivan turns to history "proper", and devotes a second 250 pages or so to the administration of President Taft, with the emphasis devoted almost exclusively to the relations between the amiable president and his strenuous friend and opponent. There is nothing new or significant in this part of the book, nothing that could not be easily gleaned from the perusal of a college textbook supplemented by Roosevelt's *Autobiography* and the letters of Archie Butt. The story is well told and illustrated (like the earlier chapters) by a profusion of well-selected photographs and

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cartoons. But the only instance in which Mr. Sullivan has thrown a fresh light upon the trials of Taft is in pointing out (pp. 406-407) the fateful effect of Attorney-General Wickersham's suit for the dissolution of the United States Steel Corporation in October 1911. A main point in the indictment of the corporation was its absorption of the Tennessee Coal and Iron Company four years earlier, which had been approved by President Roosevelt. The charge, now, that that approval had been obtained by fraud and deceit, so angered Roosevelt that reconciliation with his former friend and protégé was impossible. "It was the most disastrous act of Taft's political career," and "led to the most calamitous episode in the history of the Republican party" (p. 407). Mr. Sullivan's book was written before the presidential campaign of 1932 was fought!

The last five chapters of the book, headed by the dates 1909 to 1913 respectively, are simply chronological lists of important events that have not been mentioned in the volume before, together with a catalogue of important and unimportant books published and plays acted during the year. The importation of this device of the *World Almanac* does not add to either the dignity or the coherence of the volume.

Finally, it is strange that Mr. Sullivan chooses as the subtitle of his book "The War Begins", when not only does the war not begin, but it is not even mentioned after the first dozen pages, which discuss the assassination of the Austrian archduke simply as a curtain-raiser for the drama of American life in the preceding quinquenniad. We shall look for the beginning of the war, and much beside, in Mr. Sullivan's fifth volume.

D. S. MUZZEY

Die Revision der Pariser Friedens-Vertrage. By JOSEF L. KUNZ. Vienna, Verlag von Julius Springer, 1932.—xii, 328 pp. Sch. 22.80.

The problem of the revision of existing treaties in general and of the peace treaties of 1919-20 in particular is a serious and even an acute problem both in general international law and in current international politics. More and more students of international organization are coming to appreciate the importance of the legislative and revisionary function in international government and more and more the necessity for at least a frank reconsideration of the settlements of 1919 is being borne in upon observers of present-day efforts at international coöperation, peace and order.

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The literature of this field has, however, been very inadequate. In general works on international law there have been passages on termination of treaties, and McNair lectured on that subject at The Hague in 1928. Much propaganda for revision was made in various quarters but this was highly political in character. Finally monographs appeared dealing with Article XIX of the League Covenant (Groellner, Radoïkovitch, Wignolle), in which the two other aspects of the subject were given some attention.

The present volume brings these scientific or literary tendencies to a head. It treats of the general problem, political and juristic, of the specific treaty situation, and of Article XIX. It is minutely documented, even heavily labored. It is strongly partisan, and it rests in part upon the unjustifiable exaggeration of the portent of Article 231 of the Treaty of Versailles out of which Germans and Austrians have sedulously tried to make capital ever since 1920. In spots it is naïvely, in other places, bitterly, unscientific, and it is not exactly realistic in its political judgments. Nevertheless, it is so carefully constructed, so thoroughly documented, and so comprehensive in its treatment that it towers above any previous work on the subject, and deserves careful examination by all serious students of contemporary international politics.

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Essays on the Manchurian Problem. By SHUHSI HSÜ. Shanghai, China Council, Institute of Pacific Relations, 1932.—xxii, 349 pp.

These essays are a reprint of papers prepared at different times between 1929 and 1932, by the professor of political science of Yenching University, near Peking, a well-known Chinese authority on international law. Dr. Hsü treats both the Russian and the Japanese phases of the foreign encroachments in the Manchurian provinces of China. He bases his study on treaties and diplomatic documents between China and the Powers, principally Japan and Russia, and cites the American objections to aggressive action by Japan, particularly the objection to the Twenty-one Demands and to the claim of special rights under the 1915 treaties with China. These treaties, an important part of the basis of the Japanese claims, he discusses at length, citing the declarations of the Chinese government that they

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were not valid and binding upon China. This contention is buttressed by a citation of authority to show their invalidity, as they were not approved in the manner provided for in the Chinese constitution in effect at the time, but by the president alone, without the consent of the parliament.

Even in the exercise of the rights which Japan gained as successor to Russia under the original treaties with that country, the author maintains, the Japanese have greatly exceeded the scope of the treaty provisions. He notably cites the wide area of activity of the railway police and holds that under the strict provisions of treaties between Japan and China, the Japanese were under obligation to withdraw the police. As another example of encroachments by the Japanese, he cites the establishment of Japanese consular police at various points in Chinese territory and their consequent interference with the activities of the Chinese officials and the preservation of order in the Three Eastern Provinces. No other country has laid claim to so extensive a right to police territory in the interior of China as that exercised by the Japanese in Manchuria. Dr. Hsü is of the opinion that many of the difficulties experienced by the Manchurian government in dealing with the disorder in its own territory were caused by the presence in that territory of the Japanese soldiers and police forces.

Dr. Hsü writes distinctly from the point of view of an international lawyer, basing his argument on documents and principles of law. His book is an argument on the law as seen by a Chinese scholar, and at this time when it is so important for people in the United States to understand what persons of different classes and different training are thinking in the countries primarily concerned in the dispute over Manchuria, it is of value to have this frank and clear presentation of the Chinese side from a man as well considered in his own country as is Dr. Hsü.

It is evident, however, that great international questions are not decided by reference to the law alone. It is only one of the elements which must enter into the final settlement; but it is an important element because, recognizing the ancient respect with which the world public regards the law, statesmen try to justify their actions under the law. Presentations of the law from both Chinese and Japanese points of view should therefore be read with care by those who are seeking to orient themselves aright in the preparation for the settlement which the world anxiously awaits.

J. P. CHAMBERLAIN

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Chapters in the Administrative History of Mediaeval England: The Wardrobe, the Chamber and the Small Seals. Volume V. By T. F. TOUT. Manchester, Manchester University Press, 1930. —xx, 451 pp. 30s.

Two short quotations from Professor Tout will serve to explain the relation of the results of the detailed and painstaking researches contained in this volume to the general development of the English constitution.

> The great fact, never to be forgotten, is that the king governed the country and, whatever advice he took, was ultimately responsible for all executive acts. The primary function of council, like the primary function of parliament, a glorified council, was not executive or judicial, but consultative or deliberate. Bodies which advised rather than enacted had no need of a seal. Accordingly, we have never had a seal of parliament, and all through the middle ages we never had a seal of the council [page 61].
>
> In the failure of the sovereign to preserve a personal seal we see the whole process of our constitutional development [page 229].

In short, no English Parliament or Council ever had a seal of any kind during the middle ages though the later middle ages were a time when scarcely any official document was authenticated in any way except by seal. Notwithstanding this, the king was never able "to preserve a personal seal." It is not too much to say that we have in this apparent paradox the principal key to an understanding of the English constitution in the late medieval period. "Thus"—to quote Professor Tout's modest estimate of his own work—"a study which, in its details, seems trifling and 'antiquarian' to the last degree can be made to throw a new, if flickering, light on the broad currents of English constitutional history."

Largely owing to Professor Tout's researches, modern students, unlike those of the Victorian period, have generally come to accept his primary principle that "the king governed the country"—not the king in partnership with Parliament, but the king alone. But if so, why was the English monarchy not an absolutism in the last centuries of the medieval period? The explanation is roughly twofold. First, because "governing" the country theoretically did not and could not extend to an infringement of the rights of the king's subjects; and second—the chief point on which Professor Tout's volumes have thrown a light new but certainly anything but "flickering"—because, though "the will of the prince has the force of law",

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that will, as Bracton said in the thirteenth century, is not any chance whim of the king, but a will matured by counsel and expressed in due form: in the words of Sir Roger Twysden, the English monarchy was limited practically "by tying the instruments it was to act by." A statute, for instance, became binding by the king's assent alone, but no enactment had the force of a statute which had not been duly promulgated in Parliament. The formalities of promulgation contained the petition of the Commons and the advice of the Lords, but, as in many other official acts, they included other things as well, particularly an authentication under seal. Thus the custodians of the seals requisite for the validity of a royal act of government became, like the Lords and Commons, and like the French *Parlements,* instruments by which the king's will was tied. In periods of revolution, such as the Barons' War under Henry III or the régime of the Lords Ordainers in the reign of Edward II, the principal object of the faction in opposition to the king was always to control the royal administration through the use of the seals to enforce their will instead of the king's, and this they accomplished through their own selection of the custodians of these seals. Even in more quiet times, as Professor Tout's careful examination of the contemporary records abundantly shows, there was always more or less constant pressure to force the custodians of the seals "out of Court", i. e., out of the king's immediate *entourage*, and thus to make them in reality officers of the "Crown" rather than of the king. In this way the custody of the Great Seal had at length become an office of state instead of a part of the king's household. The king was constantly struggling to impose his personal will upon his officials, and when the Great Seal no longer served he had recourse to lesser seals whose custodians were under his personal control because still members of his household. The present volume is mainly concerned with the king's struggles thus to control the Privy Seal, but in time its custodian went "out of Court" as the Chancellor had before, and the king was driven to authenticate his acts of government by various smaller or "secret" seals in an attempt to enforce his will, an attempt which was never permanently successful. The story of this long and losing fight on the part of the king to avoid being absorbed in the "Crown" has been told in full detail for the first time in Professor Tout's monumental work, based on researches carried on for many years in the printed and unprinted records, the greatest single contribution to medieval English history in our generation.

Professor Tout died on October 23, 1929. In September of that

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year he sent to the press the last instalment of his finished work printed in this volume. A sixth volume has since appeared, consisting of an index and various lists and tables. Volume V is concerned mainly with the history and diplomatic of the Privy Seal, with its keepers, and with the smaller seals, in the reigns of Edward III and Richard II. It contains also a valuable account of the queen's household by Professor Hilda Johnstone and another on the administrative system of the Black Prince by Dr. Margaret Sharp.

C. H. McIlwain

Harvard University

Franklin Pierce. By Roy Franklin Nichols. Philadelphia, University of Pennsylvania Press, 1931.—xvii, 615 pp. $5.00.

This could have been an exceptionally dull biography. That it is not is due to the author's gifts as historian and literary craftsman. Without resort to any psychographic dicta, Professor Nichols has given us a volume which is not only a brilliant revelation of a personality, but also a convincing interpretation of an era.

Despite the political preferment and public honors which Franklin Pierce received, he was not a force of the first magnitude in the life of his generation. Fortune continuously lavished upon him opportunities the full significance of which he consistently failed to realize. His charming manner and pleasing presence could not atone for his lack of courage even in commonplace situations. His facile speech and easy improvisations were poor substitutes for that careful study and profound thought which should have characterized one who aspired to chart the path for the nation. As we review his ineffective, though not inactive, years in Congress, his insignificant triumphs as an advocate, his quest for an elusive glory in the Mexican War, his futile efforts to conciliate political factions and his tragic blunders in the grand scheme to quiet sectional discord, the extent of his failure seems colossal. Truly, there are few traits of "Old Hickory" which appear in this "Young Hickory of the Granite Hills".

Pierce's career really reached its zenith before his election to the presidency, but the troublous years in the White House represented his most important contact with governmental affairs. The author tells this story with a wealth of detail which bears witness to the wide range of his historical investigation. His book contains a mine of illustrative material for those who are interested in studying the ways of petty partisans and time-serving politicians. As a criticism

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of governmental procedure under our two-party system, the record is devastating. The historian will find in these chapters new and illuminating evidence on the Ostend Manifesto, the test of popular sovereignty in Kansas, and Pierce's ambitious plan to divert attention from the growing sectional discord by the adoption of a vigorous foreign policy.

The author feels that Pierce's futile administration cannot be explained merely by reference to the president's nervous temperament or his undisciplined intellectual equipment. His weakness was more fundamental. Like most of his contemporaries, Pierce failed to realize the significance of the forces which were already working toward the industrialization and urbanization of American society. Having fought the Bank under Jackson's leadship, having curbed the railroads in New Hampshire, and having helped to defeat "big business" in its attempt to secure a protective tariff, he continued to place his confidence in the ideals of an agrarian democracy. Preaching the historic doctrine of popular sovereignty as the solvent of the nation's ills, whether or not those ills related to slavery, he was baffled by the refusal of members of his own party in his own section, New England, to accept his panacea. While he knew well that certain economic and political groups were using the anti-slavery issue as a cloak for their selfish interests, he underestimated their strength, and he never appreciated the power which moral indignation can generate. As the author well says, he was but "one of many political leaders who tried and failed to fit the ideals of American democracy to the conditions of an urbanized American society."

Had Professor Nichols resolutely set himself to the task of judicious condensation, he might have kept this admirable biography within narrower limits and thus have won for his work that larger number of readers which it certainly deserves.

JOHN A. KROUT

COLUMBIA UNIVERSITY

General Sales Taxation. By ALFRED D. BUEHLER. New York, The Business Bourse, 1932.—ix, 378 pp. $5.00.

An attempt to portray the world-wide application of an important tax is not often made, and the instance under consideration has therefore a special significance in exhibiting the possibilities and the limitations of such an undertaking. The chief possibilities, when the work is handled with the industry and care evident in the present volume, seem to be two: There may be assembled, for each country,

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the more important facts concerning the tax law and concerning opinions about the real or assumed effects of the law as expressed by various vocal groups such as political bodies and the larger business organizations; and the compiler himself may safely make a few extremely general interpretations concerning the reasons for the development of the tax and the possibility of its continuance in the near future. Professor Buehler has accomplished this for practically all of the countries levying a form of general sales tax at the present time. The 30-odd pages of footnotes (concentrated at the back of the volume) and the 20-page bibliography evidence the extraordinarily wide range of sources which he has covered. Most of these sources are secondary, and the resultant risk of error is correspondingly large; in those few instances where the present reviewer feels competent to check, however, he has found but few misstatements, all of them of minor importance, and it appears that the author has examined enough sources and has used enough discretion to avoid most of the pitfalls inherent in this method. The style of the work is handicapped by what appears to be at times a too liberal rendition from the sources consulted, without the degree of rearrangement necessary to give a clear, easy-flowing account of the main features of the law. The diligent reader, however, who is willing to take the time to study the material carefully and to regroup it in his own mind as best suits his purposes, will find that the author has in almost every instance included all the facts essential for an understanding of the tax. The arguments cited for and against the tax, as presented by various interested groups, are irritating in their superficiality and frequent monotony. In general, the author does not stop to comment on the nature of these arguments, but presents them, carefully documented, for what they may be worth.

The limitations of the book lie in the lack of any penetrating interpretation of the reasons, if such there be, for the growth of the sales tax and for the diversity of its forms. The reasons must of course differ from country to country, and such an interpretation is perhaps impossible at this time. This is not to say that such considerations are neglected altogether. Professor Buehler notes in a general way the relation of the sales tax to inflation, its linkage to war finance, and the choice afforded between it and income and excise taxes. One cannot help wishing for more, however. Are there any particular reasons why England chose to lean heavily on liquor taxes, for instance, in contrast to Germany and France, which employed relatively light liquor taxes, but had recourse to the sales tax? Was it merely

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an accident that Italy came to exempt sales at retail, in contrast to France? How important, relatively, has been the factor of currency inflation in the growth of the sales tax? Finally, the all-important question of the shifting, incidence and other economic effects of the sales tax still awaits some improvement over the somewhat disjointed assembling of various possibilities noted by previous writers.

The reader who does not have time to study the entire book will find in chapter xix a summary of the more important points at issue. The author believes that "the experience of West Virginia and other American states and the nations which employ a general sales tax does not justify a general sales tax as a normal source of federal or state revenue in this country" (p. 260).

CARL SHOUP

COLUMBIA UNIVERSITY

Sun Yat-sen Versus Communism. By MAURICE WILLIAM. Baltimore, The Williams and Wilkins Company, 1932. — xx, 232 pp. $5.00.

In 1918-1919 Dr. William prepared a criticism of the Marxian position which in 1921 was published under the title *The Social Interpretation of History.* The book received little attention and would probably now be in complete obscurity if a copy had not fallen into the hands of Dr. Sun Yat-sen during the last year of his life. Dr. Sun drew generously from Dr. William's work and incorporated whole passages of it in his lectures on the Principle of Livelihood, which as part of the *San Min Chu I.* (*The Three Principles of the People*) became the bible of the Chinese revolution following Sun's death early in 1925. The extent to which the Chinese leader was indebted to the author of *The Social Interpretation of History* is only beginning to be appreciated in China and abroad. Dr. William's new book is important if for no other reason than that it shows in detail the extent to which Dr. Sun borrowed the expression of his arguments from the little-known work of the American.

In the volume under discussion, Dr. William attempts more than a mere comparison of the texts of his earlier book and the *San Min Chu I.* He argues that Dr. Sun found in *The Social Interpretation of History* a skilful expression of the Principle of Livelihood and that he borrowed extensively from it; that Dr. Sun was indebted to Dr. William not only for the expression of these ideas but for the ideas themselves; that until he read *The Social Interpretation of History* Dr. Sun was a Marxist but that from a study of that book

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he completely altered his position to an anti-Marxist one; and, finally, that because of Dr. Sun's shift away from Marx the alliance between the Kuomintang and the Third International collapsed. Dr. William also introduces two subsidiary themes, the failure of Bolshevism and the need for close relations between the United States and China on the basis of equality, but these need not concern us, for the importance of Dr. William's contribution does not depend upon them. The value of the book must rest upon the case which Dr. William makes for the four arguments outlined above.

There can be no doubt of the fact of Dr. Sun's copious use of *The Social Interpretation of History* in his lectures on the third principle, livelihood. That this has not long been recognized is due partly to the Chinese custom of not giving full credit to sources, partly to the fact that in the first English edition of the *San Min Chu I* the editor erroneously referred to Whiting Williams in the only footnote revealing the source of Dr. Sun's words, and partly to the obscurity of Maurice William's early book. According to a chapter contributed to the present volume by Dr. William J. Gies, the first public allusion to the connection between *The Social Interpretation of History* and the *San Min Chu I* was made in March 1927 by Dr. John Dewey. Shortly thereafter the matter was also brought to the public's attention by Mr. John McCook Roots and Miss Mary Van Kleeck. More recent evidence of the recognition of Dr. William's service to the Chinese revolution is to be found in Dr. James T. Shotwell's article on "Sun Yat-sen and Maurice William" which appeared in the POLITICAL SCIENCE QUARTERLY for March 1932 (vol. XLVII, p. 19). Dr. William's present volume is the first attempt to present the matter in detail.

That Dr. Sun borrowed his ideas as well as the expression of them from Dr. William is an altogether different contention and one which, in the reviewer's opinion, Dr. William fails to substantiate. Dr. William argues that before reading *The Social Interpretation of History* Sun Yat-sen was a Marxist but that after reading it he took a decidedly anti-Marxist position. The author shows in parallel columns on the one hand Dr. Sun's attitude toward Bolshevism, Marxism and the class war as revealed in his lectures on the Principle of Nationalism and the Principle of Democracy given from January to April 1924, and on the other hand his attitude toward these questions revealed in his lectures on the Principle of Livelihood given in August 1924, after he had read *The Social Interpretation of History*. There is no doubt that Dr. William demonstrates a lack of agreement on

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Marxism between the earlier and the later lectures. It seems more likely, however, that what Dr. William has pointed out is the vagueness and inconsistency of Dr. Sun's thinking rather than the fact that he definitely changed his mind on a vital issue. There is sufficient evidence already available at least to suggest inconsistency on the part of Dr. Sun and certainly insufficient evidence to assert, as does Dr. William, that Dr. Sun held one position early in 1924 and an opposite one in August of that year.

Dr. William's case rests on the fact that before reading *The Social Interpretation of History* Sun Yat-sen supported the revolutionary program of the Third International. Yet Dr. Sun and Adolf Joffe, the Soviet emissary, as a result of conversations held in Shanghai in the late fall of 1923, issued a joint statement declaring that Dr. Sun believed that neither Communism nor the Soviet political system could be successfully introduced into China because in his opinion the conditions for their establishment did not exist in China. In January 1924, the same month in which Dr. Sun delivered his first lectures on the Principle of Nationalism, in which according to Dr. William he revealed himself as a Marxist, Dr. Sun also exhorted the First Party Congress of the Kuomintang, meeting at Canton, to ally itself with the Communists only so long as the latter abided by Kuomintang principles and kept a thorough-going Communist program suppressed. Dr. Sun is reported to have said "if the Communists betray the Kuomintang, I will be the first to propose their expulsion." Largely under Sun Yat-sen's leadership, we find the Party Congress, although admitting Communists to the Kuomintang, declaring itself opposed to the program and practice of Communism. In other words, Dr. Sun in the late fall and winter of 1923-1924 on the one hand took what might be interpreted as a Marxist position in the lectures on Nationalism and Democracy, and on the other hand took a definitely anti-Marxist position in the conversations with Joffe and at the First Party Congress.

Paschal M. d'Elia's interpretation of Sun's attitude toward Marxism is as reliable a one as can be made until more documents are available. In *Le Triple Demisme de Suen Wen* (page 534) he writes: "It seems that Sun used the words 'Socialism' and 'Communism' synonymously. It is also the opinion of those best informed that he used both words in a different way than they are used in the Occident."

We have, finally, to consider Dr. William's thesis that because of Dr. Sun's alleged shift to an anti-Marxist position the Kuomintang-

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Communist alliance broke down. Even granting that a definite shift in Sun's attitude did take place from his study of *The Social Interpretation of History*, it is doubtful that his teachings were of sufficient influence to be regarded as a major cause of the breakdown. The repudiation of the alliance by the Kuomintang did not take place until three years after Sun's lectures on the Principle of Livelihood; the collapse of the alliance was not strongly in evidence until the Northern Expedition of 1926-1927; the *San Min Chu I* containing what Dr. William considers to have been Sun's anti-Marxist teachings was exploited by Borodin and the Communists to bolster the alliance rather than disrupt it; and, finally, it is clear that the Kuomintang-Communist arrangement failed for very much more fundamental reasons than the teachings of even the most influential Chinese leader. These points cannot be elaborated within the confines of a review; they are mentioned in order to throw doubts upon Dr. William's over-bold assertions. One piece of evidence that Dr. Sun's words were not explicitly followed even by one of his closest and later one of his most conservative followers is worth introducing. On December 5, 1925, sixteen months after Sun's lectures on Livelihood, Chiang Kai-shek wrote in the Whangpoa Military Academy Annual that the Chinese revolution was a part of the world revolution—a statement far more in accord with Comintern ideology than any made by Sun even before his alleged conversion to anti-Marxism.

Dr. Maurice William, though deserving full credit for having contributed largely to Sun Yat-sen's lectures on the Principle of Livelihood, has greatly exaggerated the importance of that contribution and has accepted uncritically the idolatry in which Sun Yat-sen has been held.

FREDERICK V. FIELD

NEW YORK CITY

International Guarantees of Minority Rights. By JULIUS STONE. New York, Oxford University Press, 1932.—xiii, 288 pp. $4.25.

This elaborate study, of which the subtitle, "Procedure of the Council of the League of Nations in Theory and Practice", is more descriptive than the title, aims to analyze the machinery that the League has developed and operated in the past eleven years. The approach is legalistic, with all the limitations inherent in an analysis which disregards, for the most part, the political and social factors implicit in the minorities problems.

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The author has made, it seems to the reviewer, two contributions. First, he has synthesized the knowledge and criticism of the subject to be found in the extensive League of Nations documents; second, he has examined numerous unpublished Council documents pertaining to the significant minorities petitions. From this viewpoint the work has merit; there are evidences of a sincere attempt to wrestle valiantly with the problem in its legal and theoretical aspects.

But the work, at the same time, makes no truly original contribution. In the first place, most of the arguments and points raised by the author have been frequently raised in the discussions of the problem of minorities in the League of Nations, republished in the League documents, and again republished (and reworded) by the author. At the risk of seeming ungenerous, it should be added that about one-half of the erudition and footnotes of the author could have been avoided by the simple recognition that more than half the documents cited have been conveniently gathered by the Secretariat of the League of Nations and published twice in monograph form (1929 and 1931). If the author did not use these monographs he either was spending extra time uselessly, or he aimed to impress the reader with the array of his footnotes citing various official publications of the League.

Furthermore, the ground of about the first half of the book covers problems which have been analyzed, from the same viewpoint, in two publications, written in English, which appeared in 1929 and 1931. But we find no intimation in this book that the author is cognizant of this fact. This has been a lesson in intellectual humility for the reviewer, for although he has published a monograph and several articles on the minorities system under the League, their existence is evidently altogether unknown to the author.

Disregarding these points, the author builds up his case rather well. The volume is well organized. It is interesting to note that the present procedure is quite elaborate, though, at the beginning, the Council had only a slender foundation for the future superstructure. Mr. Stone comes to the conclusion that the underlying general principles of the procedure are: (1) the guarantee of the rights of minorities is a collective guarantee; (2) the minorities have no standing as juridical personalities; (3) the new system has acquired the character of a judicial process by linking it to the World Court. From practical experience it has been found that the Council can discharge its duty more effectively by gaining the coöperation of the states concerned instead of dictating to them; in addition, the principal tool of the Council is public opinion.

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The last point needs elaboration if it is to stand the test of analysis. That vague power called "public opinion" controls League decisions on minorities only where it is reënforced by more permanent factors: that is, the "public opinion" against a particular minorities discrimination will bring out a petition from the pigeon-holes of the League Secretariat only when a combination of "political" forces makes it advisable or feasible. Furthermore, it is necessary to ask: what "public opinion"? Of the world? of the minorities? or of a Great Power? Such a realistic approach is perhaps outside the scope of legalistic inquiry, but the bases of the minorities problem will be understood only when the political factors are seen as controlling all the legal machinery; in short, when the minorities question has been observed through such realistic eyes as Felix Morley has focused upon *The Society of Nations*. Mr. Stone's treatment is valuable within its own limits; but these limits are serious, for they overlook the most important aspects of one of the most troublesome problems that Europe has to face.

JOSEPH S. ROUCEK

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The Partition of Turkey: 1913–23. By HARRY N. HOWARD. Norman, University of Oklahoma Press, 1931.—486 pp. $5.00.

There are certain events which assume special significance inasmuch as they terminate one historical process and inaugurate another. The Treaty of Lausanne of 1923 is such an event. This document is the last page in the long story of the dissolution of the Ottoman Empire. It is also the introduction to the new story of the Turkish nation. With much of the evidence relating to the former now accessible to the historian it is possible to draft the final chapters in something like a definitive form. Mr. Howard's work is a solid if rather conventional treatment of the final accelerated phases of the process.

The place in recent history which the author of this book finds for the partition of Turkey is somewhat larger than some scholars will admit. "In many respects," says Mr. Howard in the Preface (p. 9), "and without underestimating the other fundamental causes of the war, the great conflagration of 1914-1918 may be considered as a struggle of the Great Powers of Europe over the Turkish question in all its aspects." This interpretation of the meaning of the war no doubt rests upon a stable basis of documentary evidence, all of which has apparently been used in the preparation of this work. At the

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same time, however, the existence of this mass of material does not preclude the holding of a different view of the place of the Turkish question in the war, a view which might fit more smoothly into the "other fundamental causes of the war". It is, essentially, a matter of weighing the evidence; and, central though the Turkish question may have been, the author tends to overemphasize it.

In addition it would seem that the author has the habit of regarding the Ottoman Empire through the eyes of the European statesmen upon whose words he leans so heavily. This manner of viewing other cultures is, of course, a pit which yawns before every Western writer who attempts to deal with a problem some aspects of which are Eastern. The phrase epitomizing the way in which Europe regarded the Ottoman Empire is significant. The "Turkish question" took on the characteristics of an interrogation only because the Western world saw it in such a light. To serious-minded Turks their country did not so appear. Possibly it is asking too much of the diplomatic historian to keep before the reader the existence of other factors than the diplomatic. But, even though the subject of the present work be the partition of Turkey, it would hardly seem unreasonable to expect some treatment of the feelings of Turkey toward that operation. To neglect this factor results in an uneven, almost a distorted, treatment.

It was precisely such myopia of the Entente statesmen which prompted them in effect to disregard Turkey in ordering the Near Eastern settlement in 1919 and 1920, with what unexpected results the world now knows. The statesmen's error had greater repercussions, but it was a consequence of the same manner of viewing the situation as is shared by the author of this volume.

The merit of this book lies in the fact that it presents a complete delineation of the policies of the Powers in the Near East. Historians as well as laymen need to be reminded of the predisposition of diplomats and governments to conceive themselves as being particularly competent to order international relations. The assumption back of this conception is open to serious doubt. With the development since the war of the idea of collectivity of interest there is a real danger that the community will consider the intrigues and rivalries and imperial pretensions of nation states (or of the articulate and powerful minorities within them) as things of the past. To be reminded, as one is constantly reminded in this book, of the dominant attribute of twentieth-century diplomacy—the concept of the "will to power"—is to be made aware of the reality of national policy.

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There are several textual errors, some of which are serious. Thus we read (p. 31) that the second Balkan War came to an end August 10, 1931. And, "on December 7, 1924, the French created a new state of Alexandria . . ." (p. 330). There are several statements which are at least open to examination. For example, it is stated (p. 49) that "Russia played a very significant role in the general economic life of the Ottoman Empire." One suspects that 1,200 and not 12,000 miles of railway were to be built by the British group which, it was rumored in May 1923, had bought control of the Bagdad railway (p. 311). The number of misspellings is considerable.

The bibliography is a valuable part of the book, and there is an index.

DONALD C. BLAISDELL

WILLIAMS COLLEGE

Great Britain and the Law of Nations: A Selection of Documents Illustrating the Views of the Government in the United Kingdom upon Matters of International Law. Volume I: *States.* Edited by HERBERT ARTHUR SMITH. London, P. S. King and Son, Ltd., 1932.—xvi, 416 pp. 16s.

Professor Smith has embarked upon an ambitious venture. Ever since John Bassett Moore brought out his *Digest of International Law* in 1906, international lawyers have been hoping for companion volumes from other countries. In the United States at least, the title and subtitle of this volume, the first of a series, will be sure to elicit the exclamation: "At last an English Moore's *Digest*!" But Mr. Smith makes it clear that he has not undertaken so exacting a task. It is only fair that he be allowed to express for himself the scope and purpose of his work.

"Although the general purpose of the present work is similar to that of Mr. Moore's, there are certain important differences. Mr. Moore's *Digest* was undertaken under the authority of an Act of Congress and was carried through with the assistance of officials in the State Department, which accepted responsibility for the publication. The present work is entirely unofficial. My task has only been made possible by the aid of a grant from the London committee of the Laura Spelman Rockefeller Foundation, to which I am indebted for the necessary services of a research assistant and a typist, but the responsibility for the selection of material, for the expression of opinions, and for arranging publications is entirely my own.

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"Independence has both advantages and disadvantages. Perhaps the latter will be more apparent to the reader. For example, in completeness I cannot hope to compete with Mr. Moore's great work."

Professor Smith further explains that he has selected his material "with a view to illustrating principles rather than compiling a record of official action." The result is in effect a treatise in which the author's text consists of a few summary paragraphs interspersed with longer extracts from official documents. Mr. Smith does not, therefore, present an authoritative record of British views, as Professor Hyde has reflected the views of the government of the United States.[1]

To this reviewer, the result is somewhat tantalizing. The official documents are selected chiefly from the period beginning with the French Revolution and ending with 1885, the year to which the documents in the Public Record Office are now open for inspection. The most important source is the opinions of the Law Officers, many of which are of great interest. There are also numerous instructions to British diplomatic representatives abroad, a number of sundry Foreign Office memoranda and other papers. Occasionally the author quotes or refers to later Command Papers and parliamentary debates. The samples selected by Mr. Smith reveal the value of the sources and whet the reader's appetite. Despite the author's paragraphs summarizing the general view of the British government, he does not always convince because his evidence is so fragmentary. If, as seems almost necessarily true, he has examined many other documents of like import, extended footnote references would carry a compelling authority which the book at present just misses. (*Cf.* for instance, bottom of page 19 – top of page 20). It may well be that the facilities at the command of the author did not make this feasible, but the reviewer hopes that future volumes may go further along this line. This would add to the present utility of the volumes that reference value and that aid to future scholars which is afforded by such a plan as that adopted by Dr. Bruns for the *Fontes Juris Gentium*; at the same time it would avoid the indigestible features of a digest to which Mr. Smith objects.

The first volume contains statements and documents bearing upon "The Nature, Source and Scope of International Law", "Dependence and Independence of States", "Recognition of States and Governments", "Recognition of Belligerents" and "Succession of

[1] *International Law Chiefly as Interpreted and Applied by the United States* (1922).

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States and Governments". The sections on recognition are the most extensive. The reviewer personally believes it is useful to differentiate more clearly between recognition of states and of governments. Mr. Smith also, in the reviewer's opinion, fails to bring out the sound distinction, which his documents bear out, between recognition of belligerency and recognition of *de facto* governments. His documents and general theory do not support his assertion (page 325) that "So long as it maintains an independent existence, the insurgent government [which has been recognized as a belligerent] is considered to have all the normal rights and liabilities of a state." It is interesting to note that the British government does not seem to have dealt in terms of "recognition of insurgency" or to have distinguished between general and local *de facto* governments. There is an excellent brief summary by Professor Smith (at page 239) of the British requirements prerequisite to extending *de jure* recognition. The author disapproves of the policy followed in respect of the recognition of the Soviet government, believing it to be at variance with prior British practice and unsatisfactory in its consequences. The reviewer also ventures to suggest that the term "succession" applied to change of governments as well as to transformations of states, confuses different principles applicable to different juridical conditions.

On the whole, Professor Smith's treatment is quite objective and consistent with his belief that he should reflect the law as it is and not as it should be. There are, however, a few instances in which he appears more in the rôle of the barrister, defending the soundness of his country's position.

The reviewer ventures to express the hope that no financial or other difficulties will hinder Professor Smith from continuing his series. He has already made a valuable contribution to the literature of international law and it would be a great loss to scholarship if he were unable to complete it.

PHILIP C. JESSUP

Poland 1914–1931. By ROBERT MACHRAY. New York, E. P. Dutton and Company, Inc., 1932.—447 pp. $3.75.

As the first attempt to trace the history of resurrected, reunited Poland during the whole period of her new life to date, and thus to enable English readers to see, in something like their true perspective, the achievements of the country during this first vital decade, this book fills a very real need.

Two preliminary chapters sketch the conditions of the Poles in

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captivity, showing and explaining the existence among them, even then, of sharp differences of political policy and outlook, differences whose persistence in the new Polish state has been responsible for much of the violence of political animosity and personal antagonism which have characterized her political life.

The book divides that life into three parts. The first, from 1918 to 1923, is the period of the actual establishing of the Polish republic, the fixing of her frontiers, the making of the Constitution of 1921, the rebuilding of her economic life, reduced to utter ruin by the war. During this period Pilsudski, as Chief of State and Marshal of the Army, was, practically, the government. The period ends with his retirement from public life in 1923. The second part is the period 1923-1926, during which the country tried to live under its constitution but failed to make a success of it. The period was brought to a violent close by the "May Revolution" when Pilsudski by force of arms turned out the existing government and established a régime completely dominated by himself—which is still in force. This government is generally regarded as a dictatorship, certainly with some justification, though Pilsudski has persistently disclaimed the title of dictator.

Through each of these periods Poland's remarkable progress along economic and social lines is carefully traced and forms one of the most useful and interesting parts of the book. The many problems of foreign policy, also, are all clearly and simply presented, though from a quite definitely Polish viewpoint.

In the long struggle between Pilsudski and the Parliament or Seym which began in 1921 when the Constitution was adopted (and may or may not be finished), Mr. Machray's sympathies are quite obviously with Pilsudski, whom he regards as a great man, a great soldier and a great statesman to whom the world at large, and a part of the Poles themselves, have done scant justice and given scant understanding.

The chief weakness of the book is its failure to present the policy and motives of Pilsudski's opponents from their own point of view. Of Pilsudski's opinion of them much is said and his own words accusing them of corruption, injustice and demagoguery are freely quoted—and rightly, since they are the chief justification for his dictatorship. But there are men on the other side whose case should in simple fairness be presented. M. Ramon Dmowski, for one, is certainly not merely a corrupt politician, playing the political game in his own interests. He rendered distinguished services to the cause

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of Polish freedom both before and after the Liberation and he and his party have certainly been something more than mere obstructionists and the authors of that "sterile parliamentarianism" from which it is claimed Pilsudski saved the country in 1926.

In spite of some bias, however, the book is an admirable one. It is careful and accurate as to facts, interestingly, in parts brilliantly written and so well proportioned and arranged that a very complicated story becomes simple of comprehension. The intelligent general reader will make it his own.

JULIA S. ORVIS

WELLESLEY COLLEGE

Third Report on Progress in Manchuria: 1907–1932. Dairen, South Manchuria Railway, 1932.—vii, 235 pp.

Manchuria continues to occupy the absorbing interest of the world. But its problems are exceedingly complicated. The Lytton Commission on the Sino-Japanese conflict discovered the exceptional character of Japan's political, economic and legal position in Manchuria and proclaimed that "there is probably nowhere in the world an exact parallel to this situation, no example of a country enjoying in the territory of a neighboring State such extensive economic and administrative privileges" and that "only an intimate knowledge of all the facts, as well as of their historical background, should entitle anyone to express a definite opinion upon them". The *Third Report on Progress in Manchuria: 1907-1932*, supplies just such needed information, conveniently compressed into a single volume; it is a veritable source book on Manchuria, especially of Japanese rights and interests and activities in Manchuria, with all the important basic facts and figures, and it should prove to be indispensable to all earnest students of Far Eastern international relations.

The *First Report* appeared in 1929, followed by the *Second Report* with revisions in 1931, and the *Third Report* with further revisions and additions carries with it a new explanatory subtitle: "*The Twenty-fifth Anniversary Number Containing a Survey of the Manchurian Incident and League Council's Proceedings*". The main features of the first two are preserved in the third which, however, is better organized and brought up to date. As the title suggests, it is an admirable summary of the twenty-five years of Japanese activities in Manchuria and their influence upon the epochal transformation of Manchuria. It bears the official imprint of the South Manchuria Railway Company.

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Towering over the remarkable achievements of the past quarter of a century in Manchuria, the South Manchuria Railway stands out monumentally, and the fascinating story of its formation, development and present manifold programs forms the central theme of the *Report*. Here are revealed, in words and figures and photographs, the various activities of that premier railway in the Far East: its historical and legal and financial background; its far-flung railway enterprises which form the veritable backbone of the transportation system in South Manchuria and an indispensable link in the international traffic in the Far East; its extensive warehousing and harbor and dockyard works; its iron works at Anshan where poor thirty per cent iron ores are miraculously transformed into usable fifty-five per cent iron ores at profit; its colliery at Fushun which boasts of the largest open-cut coal mine in the world and its significant shale oil plants; its administration of and public services in the Railway Zone, and the cities and towns with modern facilities it has built therein; its experimental laboratories such as the Central Laboratory at Dairen where extensive research works are carried on to expand the uses of Manchurian products, and agricultural experimental stations and model farms where modern scientific methods are applied to help develop the Manchurian agricultural resources; its far-reaching educational program, from kindergartens and primary schools to colleges and universities, for both Japanese and Chinese residents, together with numerous libraries; its penetrating hygienic services, radiating from eighteen hospitals and six branches in all leading municipalities in South Manchuria, and health and sanitation projects, including the prevention of plagues; and its affiliated undertakings such as electric plants and gas works, hotel facilities and steamship lines.

The general transformation of Manchuria during the past twenty-five years is pictured in detail, again in words and figures and photographs, under the following sections: Communications, Leased Territory and Railway Zone, Trade, Agriculture, Mining and Forestry and Fishery, Manufacturing Industries, Currency and Banking, Education, and Sanitation. The most revealing fact in this survey is the contrast between conditions in 1907 and 1932, giving an unmistakable sign of progress under the Japanese influence. A typical example of that contrast is the enormous increase in the Manchurian trade, from 52,000,000 Haikwan Taels in 1907 to 702,000,000 Haikwan Taels in 1930, and the rise of Dairen from a fishing village to one of the best equipped ports in the Orient. Again, since the Japanese took initiative in introducing soya beans to the world market

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in 1908, production of soya beans has increased by leaps and bounds until today Manchuria produces over 200,000,000 bushels, or more than sixty per cent of the world production. These descriptive sections are prefaced by a survey of the geographical and historical background in which are depicted such absorbing matters as the comparative peace and order which Manchuria has been enjoying during the past quarter of a century in contrast with war-torn China proper, the consequent mass migrations of Chinese coolies by the millions into Manchuria, the unique exploits of bandits and brigands, the working of the Open Door policy, the Russian aspirations and interests, the complicated railway politics, and various international complications, including the Sino-Russian crisis of 1929.

The most valuable addition in the *Third Report*, as compared with the first two, is a section devoted to the "Recent Events in Manchuria". Here is presented in unmistakable terms the Japanese case on the current Sino-Japanese difficulties. Here pass in review the background and causes of the conflict, a summary of China's treaty violations in Manchuria, the nature of the Mukden incident and the subsequent events, the issues before the Council of the League of Nations through its four sessions, the Lytton Commission, and the founding of Manchukuo. Accompanying this survey and conveniently collected as the Appendices are all the important official documents on the disputes from September 1931 through June 1932.

The *Third Report* is fully indexed and has two valuable maps, one of Manchuria and adjacent countries in full colors and the other of railways in Manchuria, indicating the national ownership of existing and projected lines in different colors. It is profusely illustrated with charts and photographs.

ROY H. AKAGI

COLUMBIA UNIVERSITY

John G. Carlisle: Financial Statesman. By JAMES A. BARNES. New York, Dodd, Mead & Company, 1931.—xiii, 552 pp. $3.75.

This volume, the fruit of six years of meticulous research on the part of its author, is one of the American Political Leaders series edited by Allan Nevins. Its title is perhaps a bit misleading, for it deals not alone with Carlisle but rather fully with the financial history of the United States during the last quarter of the nineteenth century. Its making, as far as Carlisle is concerned, was not easy, for the materials relating to the life of the Kentuckian are extremely fragmentary and widely scattered. He himself left almost no literary

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remains. The card catalogue of the Library of Congress, for example, contains only three references to him. His life story, therefore, had to be constructed from an infinite number of bits of information gathered by the author from several hundred pieces of manuscript, newspapers, pamphlets and official documents. Rich collections, such as the W. C. P. Breckenridge and W. E. Curtis manuscripts and the Grover Cleveland Papers, not to mention others, have been thoroughly explored. If the portrait of Carlisle is not as distinct as some would wish it is no fault of the author.

Not much is known about Carlisle's early life other than that he was born of humble parentage in the extreme northern part of the Blue Grass section of Kentucky in 1834, was reared in poverty, and received scanty formal schooling. Notwithstanding childhood handicaps he was a teacher at sixteen and an erudite practicing attorney at twenty-four. Certain characteristics exhibited in early manhood he retained to the end: frailty of body, reticence, serenity, generosity, keenness of intellect and lucidity of statement. He was never bumptious nor sarcastic. Moreover, he hated sham and opposed special privilege to the rich at the expense of the poor.

All this we learn in two brief chapters, for with the exception of twenty-odd pages the first two hundred pages of the book are devoted entirely to Carlisle's political career prior to his entrance into the Cleveland cabinet as secretary of the treasury: his political start in Kentucky, his election to the House, his years as speaker and his brief period as senator. Mr. Barnes quite rightly contends that despite the charges of "personal rule" Carlisle was an exceedingly able presiding officer of the House and that he was never intentionally unfair (p. 151). Yet no one can deny that he studiously organized the machinery of the House to conform with his own political principles and used his power of recognition to defeat what he considered to be ill-advised legislation. Not only do these pages depict Carlisle to excellent advantage as a tariff reformer but they clearly indicate the extent to which the tariff and related economic problems tended to split the country into hostile sections and to factionalize the older political parties.

Cleveland's selection of Carlisle to be secretary of the treasury was highly praised and few will read the pages of the volume under review without agreeing that Carlisle was a financial statesman of the first rank. No one before or since his day has more effectively set forth the arguments in favor of sound money. The desperate financial crisis which gripped the country during the second Cleveland administra-

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tion was not of his making. And when he and Cleveland, rejecting the pleas of the silverites and paper-money advocates, turned to Wall Street for aid in maintaining the gold standard, they were vilified from one end of the country to the other. The story of these hectic years is vividly and painstakingly told. From it Carlisle emerges not as a crooked politician and tool of princes of wealth but as an honest man most unjustly wronged. The final hundred pages of the volume are concerned with the description of the Democratic party during the nineties and with Carlisle's last years.

Interestingly written and remarkably free from bias, this book constitutes a most substantial addition to the literature of American political and financial history.

HARRY J. CARMAN

COLUMBIA UNIVERSITY

Die Kapitalfunktion des Kredits. By CHARLOTTE VON REICHENAU. Jena, Verlag von Gustav Fischer, 1932. — 180 pp. Rm. 9.00.

The distinctive characteristic of this able study is found in the author's application of a new methodology to an old and troublesome economic question, namely, that of the relation between credit, capital, production and consumption. So impressed is she with what she regards as her methodological contribution that she supplements her title with the statement "*ein methodischer Versuch.*"

The new methodology grows out of the German social psychology associated in the economic field with the names of Müller, List, Spann etc. In her introduction the author says: "In this work shall be especially adumbrated those significant words of Friedrich List . . . 'The world of goods'. In these words lies a world of error. There exists no world of goods. In the concept 'world' there is essentially implied spiritual and living being. . . ." Criticizing as inadequate and incomplete the classical doctrine of individualism based on the assumption of a *homo oeconomicus*, she introduces a new actor in the play, namely, *homo habitualis*. As will be surmised, *homo habitualis* is a creature of the natural, but, more particularly, of the social environment. The changes in interpretation made necessary by the introduction of such an important new character into the field of credit, capital and production are naturally numerous and impressive —so much so, indeed, that in a brief review about all that can be said is that the forthright claims made for credit in the field of production by writers like John Law and H. D. McLeod and the equally

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forceful denials of the fruitfulness of credit made by numerous other writers must alike be questioned. No sweeping generalization as to the effectiveness of credit in capital creation or in the stimulation of production or of consumption can be made. It is a question of social groups, of habits, of standards of living, etc.

The work is divided into two parts. Part I deals with the history and literature of the problem from Mercantilist days down to date. Part II offers a solution. Anything like an effective summary of the detailed analysis supplied in this part is out of the question. The only generalization concerning the complicated relationship between credit expansion on the one hand, and capital, production and consumption on the other hand, which, from the author's point of view, seems to be justified, is the old one that no generalization is possible. To most of the questions the answer is Dave Harum's "mebbe yes, mebbe no". In each phase of the problem it is a matter of what economic and social groups are dealt with, what their standards of living are, what their income levels may be, etc. The final outcome is a resultant of a multiplicity of conflicting forces.

Considerations of space preclude formal and detailed criticism, but what seems to the reviewer a serious flaw in the argument is the assumption that in a complicated credit economy consumers, savers and investors deal with questions of expenditure, of saving, of standards of living and of investment in terms of goods rather than in terms of money. In like manner, while in stratified societies standards of living may remain relatively fixed, they are certainly flexible in a country like the United States where opportunities arise for raising them. Furthermore, while it would be presumptuous for the reviewer to pass judgment on German literary style, he submits that even in a "*streng wissenschaftliches*" German work a sentence twenty lines long and containing 163 words (p. 116) is pushing things a little too far!

E. E. AGGER

RUTGERS UNIVERSITY

Lyautey. By ANDRÉ MAUROIS. Translated by Hamish Miles. New York, D. Appleton & Co., 1931.—370 pp. $3.00.

It was late evening in mid-September, 1925, on the steamer *Maréchal Lyautey*, bound from Marseilles to Casablanca. The boat was off the Spanish Moroccan coast, not far from where Abd-el-Krim was struggling to free the Riff from Spain and France. Two men in civilian clothes paced the deck, talking animatedly. After several

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minutes the writer summoned up courage to stop and address one of the two—a small man with white hair and mustache—in the face of many warnings received at Tangier that an interview with him would be impossible to obtain. The man was Hubert Lyautey, Marshal of France and French Resident-General in Morocco, bound on what was to be—though we on the boat did not know it then—his last trip to that Morocco which he had created. Ten days later he resigned his post and retired. But in spite of the thousand things that were on his mind, he received the writer cordially, not only then, but later in Rabat, on the very eve of his resignation. The kindliness, simplicity and desire to help manifested on those occasions were typical of the man whose life is described in Maurois' book, *Lyautey*.

Until he was nearly forty years old Lyautey seemed fated to spend his whole life on routine army affairs in France. He was a cultured, charming gentleman with an interesting circle of friends, both of the fashionable and of the literary worlds, but his professional life seemed to him empty and monotonous. At the age of forty, he was assigned by a sympathetic superior to Indo-China, where red tape was more easily cut. Through good fortune he served both there and later in Madagascar under Galliéni, who was also a thorn in the side of bureaucracy and who received Lyautey and his radical ideas with great joy and gave him every opportunity to carry them out.

The method which Lyautey evolved, and which he liked to call his "stain-of-oil" policy, consisted in a gradual working outward of French authority from a central spot. He always tried to preserve native institutions and instrumentalities of rule to the greatest degree feasible, to make friends of all natives that could be made friends of and utilize them in subduing the irreconcilable elements, and to enforce his authority, once gained, with firmness, justice and sympathy. The experience in eastern regions made Lyautey the ideal man later to unify French North Africa.

As an epic of a great personality the book is successful, even though it seems at times a trifle rhapsodical. And though it does not purport to be a profound study of imperialism, it has, nevertheless, significance in the realm of political science, through its colorful and dramatic portrayal of the high lights of a conquering French civilization's impact on an unstable oriental and semi-oriental civilization.

Conceivably we might expect Maurois to go farther and indicate of what ultimate profit all this colonizing activity has been to France.

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For a comparison of the colonizing expenses with French trade and investment gains from the colonies indicates that the colonies—especially Morocco—have been a net drain on France. But after all, it is not the business of the soldier or administrator to count the cost of colonization; it is his business to do a good job of colonizing—to cement the new regions to the mother country and to develop their economic resources. That Lyautey did these things supremely well no person, whatever his feelings about the cost of colonies or the ethics of imperialism, is likely to deny.

The maps in the book are practically useless for following Lyautey's various campaigns. Most of the towns and rivers referred to in the text fail to appear in the maps.

CONSTANT SOUTHWORTH

WASHINGTON, D. C.

National Sovereignty and Judicial Autonomy in the British Commonwealth of Nations. By HECTOR HUGHES. London, P. S. King and Son, Ltd., 1931.—xv, 184 pp. 9s.

Abolition of appeals from Dominion courts to the Judicial Committee of the Privy Council is probably the most insistent of constitutional issues still pending in the British Commonwealth of Nations. While it is generally admitted that the existing system requires reorganization in keeping with recent constitutional developments, the problem is complicated by an avowed or tacit antipathy in many quarters to the existence of any Commonwealth tribunal as such. That the question was not settled long ago is due to marked differences of opinion within and among the various Dominions—not (as one might infer from numerous discussions of the subject, including that now under consideration) to British intransigence in face of Dominion unanimity. Among these diverse viewpoints, that of the Fianna Fail leaders in the Irish Free State has been given most recent and emphatic expression, notably by the exercise of their legislative powers, and Mr. Hughes' treatment of the problem is to be recommended as substantially a detailed exposition of their view of the case.

Mr. Hughes attacks the system of Privy Council appeals on two main grounds. On the one hand, he reiterates throughout the discussion that subjection to this external court is a violation of sovereignty and independence, derogatory to the Dominions' present status. This type of contention is well, if not favorably, known to

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all students of international relations; it carries an undertone of isolationism reminiscent of stock arguments against American adherence to the World Court. Actually the Balfour Report did not attribute sovereignty and independence to the Dominions. Moreover the whole setting of this and subsequent pronouncements upon Britannic relationships was on a plane of international organization on which these prewar concepts play a very minor rôle. Forward looking statesmen of the British Commonwealth, as of other countries, have advanced well beyond them. But when Mr. Hughes turns to the utilitarian objections to the existing system, he treads much firmer ground. The claim that there is an implied aspersion on the caliber of Dominion courts may be irrelevant, and criticisms of the delays and expense involved, and of the conservative and class bias sometimes in evidence, probably apply to most systems of appellate jurisdiction. Yet it cannot be denied that the Judicial Committee is not organized as a true Commonwealth court. Despite measures to broaden its membership, it is still the organ of one British government only, and, in so heterogeneous an association as the Commonwealth, cannot possess either adequate prestige, or a knowledge sufficiently detailed and extensive for its task.

Nevertheless the author dismisses in much too cavalier a fashion a principal argument for the retention of some central appellate tribunal, namely that it affords an essential safeguard for the privileges of minorities, and for the states or provinces in the federal Dominions. The United States Supreme Court is an organ of the national government, and its decisions have been a major factor in the progressive centralization of the American federal system. In contrast, a main grievance of Anglo-Canadians against the Privy Council has been the effect of its tenderness for provincial rights upon what was intended to be, and originally was, a highly centralized federal system. Moreover, French Roman Catholic Quebec is a center of agitation for the retention of appeals—so expressions of minority opinion at variance with that of the author are both numerous and weighty.

The practical objections to the traditional system of Privy Council appeals have been recognized and discussed for more than a generation. The central appeal court which was a major feature of Imperial federation projects has now only an historic interest. There remain two alternatives more in keeping with the present constitutional organization of the Commonwealth. One is an Imperial judicial panel, adumbrated by the Conference of 1930 and favored

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by Mr. Hughes; the other is a permanent Commonwealth Court. These are analogous, respectively, to the Hague Tribunal and to the World Court with its Optional Clause, and the reasons for preferring the latter to the former in each case are broadly identical. Surely no stronger argument against a panel system is asked than the recent Anglo-Irish wrangle over the annuities question. What is needed to forestall other such disputes is an established tribunal, with a strong "automatic" provision covering its jurisdiction in all justiciable matters.

A. GORDON DEWEY

UNION COLLEGE

Talleyrand. By DUFF COOPER. New York and London, Harper and Brothers, 1932.—369 pp. $3.75.

Metternich. By ARTHUR HERMAN. New York, The Century Company, 1932.—370 pp. $5.00.

Until recently most biographers of Talleyrand and Metternich employed hard words in delineating both characters. In the present biographies they are accorded sympathetic treatment. Both writers treat their subjects as human beings with the result that men emerge from the pages of the two books, not demigods or devils.

Talleyrand and Metternich had much in common. Possessed of great personal charm, both were passionate devotees of salon life and notorious for their many love affairs. Yet neither let women interfere with his mental life or divert him from his goal. Both were immensely skilful, with a diplomatic technique that was double-dealing of the most refined sort, in guiding events toward the desired end. During the years he was Austrian envoy to France, Metternich was in close association with Talleyrand and from him undoubtedly learned much regarding diplomatic subtlety. As factors in the downfall of Napoleon, both played the double game with diabolic cleverness. At the Congress of Vienna they were the master minds. These two were the greatest diplomatists of the age. But in politics Talleyrand was a liberal, whereas Metternich execrated liberalism. Though, like Metternich, an aristocrat, Talleyrand accepted the Revolution which to the former was simply anarchy, nothing more. Of the two, Talleyrand is in many ways the more remarkable.

It is the firm belief of Mr. Cooper that "Talleyrand is a true patriot and a wise statesman to whom neither contemporaries nor posterity have done justice". But he pleads his case judiciously.

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The author shows that Talleyrand did not scruple to take bribes, yet that he never sold himself to a project which was not consistent with his plans and ideas. Mr. Cooper discusses with eminent fairness the part his subject played in the arrest and execution of the Duke of Enghien, the blackest deed in the career of Napoleon, and also his responsibility for the invasion of Spain. On closing the book one cannot escape the impression that despite his weaknesses and vices, Talleyrand was a man of high idealism; that, though he was often guilty of treason against the various ephemeral governments which he served during his long career, he never betrayed the interests of the French people.

From the days before the Revolution until his deathbed, the author points out again and again, Talleyrand adhered unswervingly to a twofold aim: permanent peace and coöperation between France and England, the two progressive powers of Europe at that time. He worked for this end by the side of Mirabeau, he sought it under the Feuillant government and under the Girondins, from exile he urged it upon Danton, during the Directorate he endeavored to return to it, and under the Consulate he promoted it at the Peace of Amiens. As the diplomatic brains behind the rise of Napoleon, he tried unavailingly to urge upon his master a moderate policy in the treatment of the defeated. When he saw that Napoleon would not desist from his purpose, which presaged inevitable ruin for the French people, he did all in his power to thwart the ambitions of the French emperor and to hasten his downfall. As minister for foreign affairs under Louis XVIII, for whose restoration he was directly responsible, Talleyrand was guided by the determination to maintain the peace of Europe and to promote a better understanding between England and France. Appointed ambassador to England in 1830 by Louis Philippe, he was largely instrumental in preventing a European war over the Belgian question.

Although the author's researches are extensive, his work has been made possible by the three-volume biography published recently (1928-31) in French by M. Lacour-Gayet. Mr. Cooper's account is consistent from beginning to end and is written in a lucid and pleasing style. He has succeeded in imbuing the Talleyrand of his printed pages with some of the fascination exercised by the diplomatist upon his contemporaries. It is undoubtedly the best biography of Talleyrand which has been published in English.

Mr. Herman's biography is also an important addition to English historical literature. "The following pages", he writes, "seek to

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present a more attractive Metternich in the belief that the facts offered support a sympathetic reaction." In 1925 the German historian, Heinrich von Srbik, endeavored in his vast scholarly biography to redress the balance of judgment against Metternich and show that there was in him something of the nature of greatness. Mr. Herman, whose book is under a deep obligation to the work of von Srbik, presents a similar interpretation for English readers.

Metternich, the author contends, was above all the "technician of universal, supra-national peace". "It is here", he writes, "that his greatest claim to fame lies, and it is in this rôle that his name may some day be resurrected, to be placed with the names of those who have deserved greatly of mankind." The interpretation is not always convincing and there are some who will not agree with it (see Bibl, *Metternich in neuer Beleuchtung*, 1928). Despite his advocacy of Metternich's cause the author does not conceal the weaknesses of the Austrian statesman. He depicts Metternich's failure to understand the constructive forces in society and also his propensity to believe what he desired to believe. He does not fail to emphasize the morbid self-love from which grew Metternich's belief in his infallibility.

Since the author sees Metternich at the zenith of his power during the Congress of Vienna, and regards the years after 1815 as an anti-climax, his portrayal of the period after Vienna lacks the interest of the earlier period. It is to be regretted that the style of this volume, in which the historical facts are well-balanced, is at times ponderous and affected. This, however, is but a minor criticism of a book which should be of great value in establishing a more reasonable view of the Austrian statesman.

ROBERT R. ERGANG

NEW YORK UNIVERSITY

The Cost of the War to Russia. By STANISLAS KOHN and BARON ALEXANDER F. MEYENDORFF. Published for the Carnegie Endowment for International Peace by the Yale University Press, New Haven, 1932.—xv, 219 pp. $3.25.

The major portion of this volume, one in a series on the *Economic and Social History of the World War*, is given to Professor Kohn's analysis of the vital statistics of European Russia for the years 1914-1917. The accuracy of marriage, birth and death statistics is, of course, directly dependent upon the completeness of registration of these events. In Russia, even in the superficially orderly days pre-

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ceding the war, these figures were at best approximations to the truth. Later, the disorganization of all governmental functions greatly reduced the scope and scientific validity of the available demographic material. This is fully realized by the author, who repeatedly stresses the fact that his data are in many instances not only fragmentary but of questionable value and that his deductions are, therefore, subject to an undoubted though indeterminable degree of error.

Let us present briefly the author's main findings. The estimated loss of life during the war years equals the sum of fatal casualties in the army and the drop in the natural increase of population. The former totaled 1,660,000, or more than 10 per cent of the 15,800,000 mobilized men, including the peace-time army of 1,423,000. It may be added that the number of men who were totally disabled was but slightly less—about 1,400,000. After numerous computations, the author finds that the decrease in the natural growth of population in the entire Russian empire was probably in excess of six million. This, added to the deaths in service, gives a total of about eight million, the equivalent of the natural growth in a corresponding "normal" period.

The statistics for the territory of European Russia, exclusive of Finland and Russian Poland, represent a rapidly diminishing series beginning with data for all of the fifty provinces for 1914 and dwindling down, in 1917, to but six provinces for marriages and deaths and seven provinces for births. The rates are of doubtful accuracy, even for the first year of the war, the totals of births, deaths and marriages being compiled from "the summaries prepared by the clergy which offered little guarantee of accuracy" (p. 3). The estimates of population are based, in the main, on the census of 1897, the only complete enumeration ever made in prerevolutionary Russia. The movement of population in the subsequent years was the most significant in the modern history of the country, the completion of the Trans-Siberian Railroad in 1896 leading to a veritable hegira of the land-starved peasantry into the free stretches of the Czar's Asiatic empire. The estimates of population for the European provinces for 1914-1917 are, therefore, of necessity quite unreliable.

A few of the processes employed in the study are open to question. In computing deviations of the rates for the war years from the "normal", the author takes for his point of departure the year 1913. As a matter of fact, however, in the years preceding the war "the birth rate was declining in a marked degree" (p. 77). This was also true of the death rate (p. 99). A comparison, therefore, should

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have been made with the *trends* indicated before the outbreak of the war and not with the figures recorded for a *single* year.

The very limited returns for the last year of the war exhibit striking fluctuations. Thus, in the province of Vladimir 90,305 births were recorded in 1913 and only 37,793 in 1917—a drop of 58.1 per cent, while in Tula, another province of Great Russia, the corresponding figures were 82,474 and 72,192—a reduction of only 12.5 per cent. The author states that this wide variation "does not carry weight" (p. 80), yet he uses these figures in estimating changes in the natural increase of European Russia. Elsewhere in his work (p. 106), he assumes for the entire country the mortality experience of one region, the Ukraine, in 1896 and 1897.

As an illustration of the statistical method, Professor Kohn's study is, in general, praiseworthy, but one is inclined to doubt the utility of devoting 129 pages to the presentation of such material when many of the conclusions are, after all, only good guesses.

Baron Meyendorff concerns himself with the social cost of the war. The immediate consequence was, of course, the loss of 303,000 square miles of territory, with a population of 31,050,000, representing respectively 15.4 and 23.3 per cent of the totals for European Russia. The railway system was reduced by 4,000 miles, or one-tenth; the number of industrial workers, by one-sixth; all industrial enterprises, by one-third.

The author calls attention to the important fact that 1905 marked the beginning of a momentous change in the Russian economic system so that by 1913, Russia "had a greater number of enterprises employing over 1,000 workers than Germany" (p. 188). Also, that the Russian proletariat was "imbued to a surprising degree with socialist ideas". The year 1914 foreshadowed a revolutionary outbreak of much greater compass than that of 1905. The declaration of war united the people and the government, but the reconciliation was not lasting. While on January 9, 1915 only 2,039 workers were on strike (in commemoration of the Bloody Sunday of 1905), on January 9, 1917 in Petrograd alone one-half of the 277,876 industrial workers participated in this purely political strike (p. 198).

These and other facts presented in the essay are interesting. But the reviewer was, frankly, disappointed in his expectation to find "mature comment upon events . . . that would otherwise be lost for the future understanding of this great crisis in human affairs, an element which no other generation working from Russian archives could ever supply" (from Preface by Professor Shotwell, general

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editor of the series). A decade ago, Baron Meyendorff's contribution would have served the useful purpose of dissipating the opinion then prevalent that the Russian Revolution was "made in Germany". Thus, the author tells us that "the railway system broke down by the end of the first year of war . . . the open market was short of everything . . . the equipment of the peasant was deteriorated . . . there were neither scythes nor sickles and there was no way of obtaining steel parts . . . so that not even ordinary repairs could be properly executed . . . the food situation was serious and was getting increasingly worse throughout the war", and so on. In the sixteenth year of the revolutionary régime, few, if any, intelligent persons are unacquainted with these facts.

In some respects the author's interpretation of events is rather misleading; for example, his acceptance of Baron Nolde's opinion that the liquidation of the lands owned by enemy subjects led to "the policy of expropriation of all landed property . . . by means of the revolutionary seizure . . . by the peasants" (p. 162). While this may be true in a literal sense, it was, in fact, the culminating act in a process manifest for centuries and punctuated from time to time by exceptionally violent outbreaks such as those led by Stenka Razin and Emelian Pougatchoff.

J. V. DePorte

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The Making of Roumania: A Study of an International Problem, 1856-1866. By T. W. Riker. New York, Oxford University Press, 1931.—viii, 592 pp. $7.00.

Although this book, judged by its self-imposed limits, may not seem to be particularly actual, it owes its existence, on the one hand, to the recent revival of diplomatic studies due to the war-guilt controversy and, on the other hand, to our current interest in problems of international control. For Rumania in the ten years here treated was a ward of the powers who undertook to direct its youthful steps and who, because they could not agree on anything but a system of parental prohibitions, usually found themselves constrained to give a lame *de post facto* endorsement to the self-willed acts in which their charge saw fit to indulge. Whatever exhilaration the tedious story of this tutelage affords springs from this impertinence of the

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Balkan waif, which again and again walked right up to its august mentors and tweaked their noses in full public view. The amusing scene was enacted for the first time when Moldavia and Wallachia executed their plan of union by electing (1859) the same native nobleman, John Alexander Couza, as their prince; it was resorted to by the new prince during his seven years of rule as his chief consolation for the tribulations of office; and it reached a climax, so far as this book is concerned, when the Moldo-Wallachians flouted the solemn injunction of their overlords and elected a foreigner, Charles of Hohenzollern, as their sovereign and for good measure declared the crown hereditary in his family.

Avowedly a purely diplomatic study, this book represents an enormous research conscientiously carried out among the pertinent papers preserved in the archives of London, Paris, Vienna and Berlin. The only diplomatic repository of any consequence which was neglected and which might have thrown an additional ray of light on the complicated negotiations among the Protecting Powers is that of Russia. The author drew also on contemporary brochures, memoirs and the vast mass of every kind of printed source material. His method may be deduced from his classified bibliography, which will be welcomed by every student of the field. The text itself shows at every turn that the author is conspicuously free from bias, that he expresses himself firmly but cautiously on every issue which arises, and that he possesses a poised and cultivated mind calculated to inspire confidence in his findings. Of course, in spite of his studied detachment from the events he describes, he applies to them his own personal scale of values and, like his many contemporaries in the diplomatic field, is not as completely "objective" as they are in the habit of boasting in their introductions. But as our author's scale derives from the liberal-democratic doctrine which constitutes the usual faith of the historians of nationalism, the mental background of his exposition is not likely to meet with anything but approval. However, owing perhaps to the very perfection of its kind, the study raises the question of the value of that diplomatic history which since the war enjoys such an extraordinary popularity. That diplomatic history makes a contribution of a sort to our knowledge as to how society operates on the international plane will be at once conceded. But if history, as this reviewer holds, is primarily concerned with the forces and principles of the social process, it follows that the elaborate verbosities and hypnotic gestures exchanged among the diplomats often sink to insignificance and even puerility.

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The reason would seem to be that the diplomats deal with nothing more stable than the ever shifting opinions of themselves and their respective publics and that to follow their dealings with each other is to squirm and plunge among quicksands. To concentrate, on the other hand, on the social process means to disengage forces which have the dignity of at least a certain measure of permanence and accordingly endow history with a genuine intellectual content. The author himself illustrates the distinction on the few occasions when he abandons the diplomatic whispering gallery to follow the internal developments of Rumania. For this undiplomatic reviewer the passages dealing with the election of John Alexander Couza, the secularization of the monasteries, and the liberation of the serfs have a much deeper significance than the most eloquent rhetoric of the beribboned spokesmen of Europe. When the talented author writes again upon Rumania, it is to be hoped that he will reverse his procedure and, to use his own phrase, will look not in on this country from without but outward from within.

FERDINAND SCHEVILL

UNIVERSITY OF CHICAGO

Business Organization and Control. By CHARLES S. TIPPETTS and SHAW LIVERMORE. New York, D. Van Nostrand Company, Inc., 1932.—viii, 748 pp. $3.75.

This recent contribution to the study of business organization and control treats the subject under three main divisions: Forms of Business Organization, Trust and Concentration of Control, and Public Control of Business. The treatment throughout is thorough, discriminating, balanced, and the subject-matter is presented in a readable and interesting manner which renders it admirably fitted for classroom instruction as well as for the general reader.

As the authors modestly suggest in the preface, "some of the material is not new", but the unique feature of the book is the lucid method of handling material that has been dealt with by former writers. In order to understand our complex forms of business organization today, it is necessary to survey earlier forms such as the proprietorship, the partnership, the joint stock association and the simple corporation. In part one, the authors clearly set forth the advantages and the disadvantages of the foregoing types of business from the point of view of the investor, as well as from the point of view of the public.

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In part two, the combination movement is treated under the sub-headings, gentlemen's agreement, pool, trustee device, community of interest, the holding company and merger, or complete consolidation. Very pointedly do the authors state (p. 295) that "the combination movement is the name given to the whole body of efforts of enterprisers and corporations to create devices and develop methods to avert the influence of competition in business."

Combination activities among railroads are first considered and the reaction to these activities culminating in the "granger laws" and the creation of the Interstate Commerce Commission whose powers have been extended to cover rates, capitalization and new construction. A pregnant thought (well supported by facts) is that the combination movement from 1870 to 1900 had been due to the initiative of persons directly engaged in industry, while the combinations since 1900 have been, primarily, the result of the activities of investment bankers anxious for promoters' profits.

In the discussion of the Sherman Act and the Clayton Act (chap. xiv), the authors go back to the early common-law decisions in England in order to get a clear understanding of the legal concept "agreements in restraint of trade". They show that as early as the year 1300 combinations to enhance prices were held punishable by fine; that in 1415 an agreement between craftsmen whereby one was to forego the exercise of his trade for a limited period was held non-enforceable; that in 1711 agreements in restraint of trade were not unlawful, if the restraint were limited in time, or territory, or both.

In the discussion of "monopoly", the authors point out that the earliest types consisted in royal grants to favored persons giving them exclusive rights to engage in selling certain commodities. Since the abrogation of such royal grants by action of the British parliament, any concerted action between parties to enable them to control the marketing of commodities came to be regarded as "monopolistic", and, therefore, unlawful. In our Sherman Anti-Trust Act the phrases "agreements in restraint of trade" and "conspiracy to create monopoly" really embody concepts carried over from the common law of England.

The authors are justified in their criticism of the Supreme Court of the United States for its decision in the "Knight Case" in which it was held that a control over the manufacturing of a commodity amounting to 98 per cent did not necessarily mean a "restraint of trade" within the meaning of the Sherman Act.

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We heartily agree with the authors in their opposition to the agitation for repeal of the anti-trust laws, and also in their commendation of the Federal Trade Commission and recommendation that its authority should be broadened so as to enable it to "unearth objectionable behavior before competition has been seriously restrained".

After a careful perusal of this excellent text, the writer regrets that on (p. 690) the rehabilitation industrial plan of Mr. Swope is called the "Smoke Plan". This sarcastic designation is not in harmony with the scholarly, judicial character of the text as a whole. However, one slight defect does not materially detract from the general excellence of the work, for which we predict an extensive adoption by our colleges and universities.

T. W. B. CRAFER

SYRACUSE UNIVERSITY

Fontes Juris Gentium. Edited by VIKTOR BRUNS. Series B. Sectio 1, Tomus 1, Pars 1: *Digest of the Diplomatic Correspondence of the European States, 1856-1871*, Fasc. 1. Published for the Institut für Ausländisches Öffentliches Recht und Völkerrecht by Carl Heymanns Verlag, Berlin, 1932.—lxxii, 432 pp. Rm. 35.

The first volumes of Sections 1 and 2 of Series A of Dr. Viktor Bruns' great undertaking have already been reviewed in the QUARTERLY.[1] Here is the first of Series B, both the most interesting and the most difficult of all the projected portions of the work. It is a digest of European diplomatic correspondence from 1856 to 1871 in so far as that correspondence has appeared in printed sources—colored books, parliamentary papers, *British and Foreign State Papers, Die Grosse Politik*, the *Staatsarchiv, Archives diplomatiques*, etc. Others of the official documents on the origin of the War of 1914 and some sources such as *Die gesammelten Werke* of Bismarck and like volumes which contain documents have also been utilized. The date of the Treaty of Paris in the middle of the last century was chosen because it is only from about that decade that the various sources utilized (except for the English) are available. The digest is, of course, also limited by the general aim and function of the work, which is to contribute to international law—not to history or to diplomacy as such.

But Dr. Bruns has no illusions about the result of compiling such scattered bits. His Preface—as in the earlier volumes—explains not

[1] Vol. XLVII, p. 296 (June 1932).

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only the scheme of the book but Bruns' own sound and challenging philosophy of international law. "It is . . . somewhat strange", he points out, "when the existence of a particular practice is said to be proved by reference to some assertion made by a government, i. e., to occasional allegations made by an interested party to an international dispute. To prove the existence of a principle of international law by means of State practice is by no means as easy as that." The fundamental purpose of this volume, as of the whole undertaking, is similar to that of our American private law digests—to point out to the worker sources where the material with which he must deal is available. The *Fontes Juris Gentium* gives a short cut but not the destination. The extracts from documents reproduced here do not purport to contain legal rules in all cases. Dr. Bruns explained that an experimental attempt to make the volumes merely a collection of statements of legal principles showed the unwisdom of such a course; what we have is a collection of materials from the study of which each reader may draw his own conclusions.

The topics covered in this first fasciculus of Part 1 include "Nature of International Law"; "Structure of the Community of States"—balance of power and the European Concert; recognition, equality, independence and sovereignty; intervention; nationality; and "Territory of States". On some topics the data is very meager—only two brief extracts, for example, on "Dual Nationality". On the other hand, there are some forty pages on the "Will of the Inhabitants and Plebiscites" as "Conditions of Acquisition of Territory".

For practical reasons, the diplomatic correspondence of only European states is included but this naturally involves considerable correspondence with American governments. The British sources have furnished rich stores on the period of the American Civil War, for instance.

Each extract is reproduced in the original language of the publication from which it is taken; if this original was not in English, French or German, a translation into one of those languages is added in a footnote only when such translation is available in the same sources. The footnotes also contain the briefest possible indications essential to identify persons, places or events referred to in the text. In common with other volumes of the series, the arrangement and classification are admirable, fulfilling all desiderata of a digest.

It would be silly to quarrel with so satisfactory a work because it is not more than it is. Of course it could have been made even more

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useful if unpublished but now open government archives had been combed. Such a task would far more than double the difficulty of the undertaking. The editors deserve the greatest credit and gratitude for their remarkable achievement. That achievement will facilitate and inspire the further work that some day will be done.

PHILIP C. JESSUP

Peuples et civilisations. Publiée sous la direction de LOUIS HALPHEN et PHILIPPE SAGNAC. Volume VII: *La Fin du Moyen Âge.* Part I: *La Désagrégation du monde médiéval (1285-1453)*; Part II: *L'Annonce des temps nouveaux (1453-1492)*. By HENRI PIRENNE, AUGUSTIN RENAUDET, ÉDOUARD PERROY, MARCEL HANDELSMAN and LOUIS HALPHEN. Paris, Librairie Félix Alcan, 1931. 2 vols.—324, 569 pp. 60 francs, 35 francs.

This octavo volume, of 813 pages of text and 65 pages of index, is one of a series of twenty volumes in course of publication, beginning with *Les Premières civilisations* and ending with *Le Monde contemporain.* This is the ninth to appear. The books average about 550 pages. They do not form so massive or anything like so extensive a series as the old *Histoire Générale* of Lavisse and Rambaud or the *Cambridge Medieval History*, nor do they engage, per volume, nearly so many collaborators. But they are much more readable, of a more even texture, and are unified works with almost no overlappings, rather than collections of monographs.

The authors of volume VII have a very definite frame for their picture, which is indicated by the subtitles. Part I treats of the breakdown of medieval institutions and ruling ideas; part II sketches the work—often experimental—of reorganization, preparatory to the more strictly modern period, which is opened with the eighth volume of the series. The introduction to the volume under review gives a brief outline of the scheme of the whole; each chapter similarly starts out with a paragraph setting forth what follows in detail; the *Conclusion* (pp. 12) attempts successfully to "*marquer . . . le point où aboutit l'effort troublé et dispersé des deux siècles, si chargés d'événements . . .*"—French clarity of a high quality.

To the reviewer the most notable feature of the book is the attention given to religion and matters ecclesiastical, to philosophy (remarkable), literature and the fine arts, in addition to economics (extremely valuable) and political theory. Here is no bald addendum to political narrative; but generous space, analysis, interpre-

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tation, integration. Part I, chap. xi (pp. 499-563), for example, deals with *les efforts de rénovation intellectuelle et artistique en Occident (1378-1453)*. This contains a brilliant exposition of the struggles of mysticism, Petrarchian humanism, critical humanism (Valla) and the so-called synthesis of Nicholas of Cusa to take over intellectual leadership from the slackening grasp of the Occamist philosophers. The service, by the way, which Occamist philosophy rendered in the originating of modern science is convincingly asserted (part I, pp. 259-61; *cf.* A. N. Whitehead, *The Function of Reason*, Princeton, 1929). The stock of scholasticism is rising.

Pirenne carries economic history, in three chapters, and also Burgundian history; Renaudet handles things theological, philosophical and artistic; Handelsman is responsible for Eastern Europe and the Orient (so far as it affects Europe); the other topics are in the main joint enterprises. The bibliographies list fundamental surveys and the recent literature; they will prove to be very valuable.

The only noticeable error which deserves mention is Pirenne's adherence—probably he has never looked into the matter—to the older view that the Turkish "blockade" of the western ends of the oriental trade-routes compelled Europe to seek access to the East by way of the oceans (part I, p. 2; part II, p. 153). But in volume VIII (p. 53) of this series Hauser accepts the current view, with which Lybyer has made us familiar (*Eng. Hist. Review*, vol. XXX, 1915).

G. C. SELLERY

UNIVERSITY OF WISCONSIN

George D. Herron and the European Settlement. By MITCHELL PIRIE BRIGGS. Stanford University, Stanford University Press, 1932.—178 pp. $1.50.

George D. Herron, an Iowa doctor of divinity and professor of "applied Christianity", residing in Geneva during the World War, became a leading interpreter to Europe of the policies and opinions of the country from which he had been self-exiled for fifteen years. This rôle came to him by accident. Carried away by a profound emotional commitment to the Allied cause, he persisted in prophesying, during the period of American neutrality, that Wilson was planning with "divine cunning" to bring America to the side of the Allies. When Wilson campaigned for reëlection with the slogan "he kept us out of war" Herron wrote an article explaining that this was mere subterfuge. When Wilson's note on war aims in De-

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cember 1916, and his "Peace without Victory" speech in January, seemed to show "an unemotional and reprehensible impartiality", as if all belligerents were put on the same moral footing, Herron declared that this was only a mask, that the hidden meaning of the speech was an ultimatum to Germany to be followed by war. The turn of events gave to these extravagances, untrue at the time they were written, the aspect of officially inspired pronouncements. "By the summer of 1917 Professor Herron had come to be recognized in Europe as a spokesman for America whose prophecies had a strange habit of materializing." When Herron denied that he was in Wilson's confidence, the wise Europeans, cognizant of the ways of diplomacy, refused to believe him. And then once more events caught up with imagination. Herron's connections were so extensive, his sources of information so valuable, that the American Embassy at Paris, and then the Legation at Berne, requested and received from him regular reports, which brought him ultimately into touch with Wilson.

The most important matters he reported to the State Department were the peace feelers of German and Austrian agents. The Haussman-Meinl conversation of December 1917, the talks with Professor Lammasch in February 1918, the Quidde interview of April and the exchange of views with Foerster and the Munich pacifists in June were his principal adventures.

Haussman spoke for a peace based on German victory, Lammasch for an Austrian peace based on a federalization of Austria, and Foerster of a peace to be forced upon the Central Powers by the threat of Bavarian secession. To all of his interlocutors Herron spoke like an inspired prophet, doing not a little to build up in liberal and pacifist circles in Central Europe the high hopes in Wilson which were to be so grievously disappointed.

When Wilson came to Paris Herron had several interviews with him, and received an appointment as delegate to the abortive Prinkipo Conference. As the treaty terms came to be defined, Herron was increasingly distressed by the prospect that the principles he had preached would not prevail. At the end of April, being called upon to make an address at the University of Bâle on the subject "Wilson", he wrote to the president asking for "a half dozen lines to give me some hint of your final feeling about the Conference." This drew from Wilson a reply, written "in haste" on April twenty-eighth, a week before the treaty was handed to the Germans—one of the most conclusive evidences we have of Wilson's appraisal of the treaty.

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> I am sorry [Wilson wrote] that you are so deeply discouraged about the work of the conference. It is undoubtedly true that many of the results arrived at are far from ideal, but I think that on the whole we have been able to keep tolerably close to the lines laid down at the outset, and I am confirmed in this opinion by the judgment of many conscientious men about me, by whose conscience as well as by my own I try to be guided. The treaty which ends so terrible a war must unavoidably seem harsh towards the outlaws who started the war, but when the details are read and understood I believe that the impression will be largely removed. Perhaps my judgment is affected by the consciousness that results are so much better than at one time I feared, that they now seem to me better than they are.

It appears from the Herron papers that this was the only confidential declaration Wilson ever made to his reputed "man of confidence" (*Vertrauensmann*).

Dr. Briggs has rendered valuable service in making available the gist of the voluminous Herron Papers deposited in the Hoover War Library. The reviewer questions the wisdom of retaining Herron's own arrangement of the papers, by country and subject, which interrupts the narrative sequence and obscures the relation of Herron's diplomacy to other events. Doubtless this accounts for the failure to refer to the Austrian approach to Wilson through the King of Spain in appraising the Lammasch conversations. But it may have been for the sake of a very commendable directness that such omissions as this were made.

ROBERT C. BINKLEY

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BOOK NOTES

The World Depression, South Africa and the Gold Standard are discussed in a recent volume by C. G. W. Schumann (Cape Town, Juta & Co., Ltd., New York, Stechert, 1932; vi, 453 pp. 7s. 6d.) Professor Schumann's review of the South African phases of the depression is embodied in the final chapter of his monograph; this is preceded by a sane, though rather conventional, account of the questions of the world depression and the depreciation of currency. He introduces his volume by a tolerably readable, though sketchy, account of the advent of the world depression, and comes to fairly familiar conclusions with regard to it. Along with these conventional scientific conclusions, are some suggestions and inferences of a distinctly popular variety, so that one can hardly feel that the survey is altogether as well-judged or as balanced as it might be. Nevertheless, the first half of his volume is interesting, particularly as giving the point of view of a certain school of thought with regard to the reasons for the advent and development of the world depression. It will be specially acceptable to those who believe quite thoroughly in the so-called theory of business cycles, and it presents remedies and treatment in a quite conservative fashion, urging that settlement of world debts, reduction of tariff barriers, price stabilization etc. will help a great deal toward the restoration of equilibrium. In all this there is nothing new, or particularly instructive, as compared with other works on the subject. The second half of the volume, including a preliminary chapter on currency depreciation, and leading up to chapter iv on "South Africa and the Gold Standard", is much more skilfully handled. As the author states in his preface "an analysis of the problem [of price] in the greatest gold producing country in the world will not be devoid of interest to the foreign reader". As a matter of fact, it is full of interest to every reader, and the survey given by a careful observer of the development on the spot must prove a useful contribution to the subject. After some hesitation, the author comes to the conclusion that the abandonment of the gold standard by South Africa would be an advantage to the country upon certain conditions, which he then enumerates. These conditions seem to the present reviewer to be most of them impossible,

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since they include the assumption that world economic conditions do not improve, that the South African pound is retained at the desired level by "deflation", that the depression of prices is prevented from going further than to a certain level, and others of the same kind. The author is probably a better observer than he is theorist, and the bulk of interest in his descriptions centers around his review of facts rather than his suggestions for improvement of existing conditions.—H. PARKER WILLIS.

Among the most interesting of recent works on international affairs is *The Spirit of World Politics: With Special Studies of the Near East* (New York, The Macmillan Company, 1932; xiv, 571 pp. $5.00) by William Ernest Hocking, professor of philosophy at Harvard University. Written with great clarity, enlivened by graceful wit, searching in its analysis of the spirit which underlies the relations of peoples with one another, the volume is a valuable contribution to the literature of international relationships as they are and as they should be. It is Professor Hocking's purpose to clarify certain definite principles governing world order since, in his opinion, the dealings of nations with one another are at present controlled by a "spirit which in the midst of a clash of interests still gropes for principles." The scheme of the book includes a discussion of the term "backwardness" as applied to peoples, an examination of the so-called measures of backwardness, a study of the national and international implications of the concepts of nationality and self-determination, and some thoughts on the question of Ethics and the State. The general discussion is illustrated and supplemented by critical estimates of the present conditions in Egypt, Syria, Palestine and the B and C mandates. Among the principles which the author advances are that the Western states should everywhere treat human beings according to what they may become with the best available aid, that wherever they interfere the "progressive" peoples must know what they are doing, and that interference must bring with it education. Professor Hocking is in full sympathy with the idea behind the mandate system, advocates the shedding of publicity on national and international actions, and has considerable faith in the League of Nations, which, he believes, may lead the way to the formulation of a political ethics. — WALTER C. LANGSAM, Columbia University.

Dr. Alexander J. Boyazoglu of Salonica presents, in his volume on *Agricultural Credit* (London, P. S. King & Son, Ltd., 1932; xxxiv, 267 pp. 15s.), a general discussion of the subject with chief

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emphasis upon the European point of view. The book is the result of a study conducted under the auspices of the Greek Union of Agriculturists who, after the erection of the Agricultural Bank of Greece in 1927, felt that for political and economic reasons an impartial presentation of theoretical as well as practical considerations relating to credit for rural interests should be made. The substance of this volume, therefore, is theoretical. The author's research background is his *Contribution à l'étude de l'économie rurale de Grèce d'après guerre*, 1931. In a five-page preface Dr. Papanastassiou, minister of agriculture, puts upon the work the unequivocal stamp of official Greek approval. Chapter i argues the necessity of an independent branch of credit for agriculture. This is followed by a synoptic discussion of agricultural capital needs, and the ways of obtaining requisite capital locally, nationally and in foreign money markets. Subsequent chapters deal with organization, credit securities, classes based on security, classes based on rural needs, indebtedness of agriculture, usury, organization systems, policy and international credit. Ample consideration is given to coöperative credit. The outstanding merit of the treatise lies in the completeness with which it analyzes its specific field. Although the brevity with which important topics are treated is often regrettable, it is somewhat compensated for by careful documentation. A companion volume is promised to deal with actual operations of rural credit institutions. The reviewer hopes this will include American conditions. Aside from a few minor instances, the text is idiomatic English. While noting the general lack of inclusion of New World agricultural credit activities, we may be sure the book will be welcomed by American economists.—O. S. MORGAN, Columbia University.

Although Italy is a permanent member of the Council of the League of Nations, although she has signed the Locarno treaties, the Kellogg Pact and the Optional Clause, although she has adhered to the General Act for the Pacific Settlement of International Disputes and to the Convention for Financial Assistance to states victims of aggression, although she has signed about sixteen treaties of arbitration and conciliation, including one with Switzerland for the submission of *all disputes* to arbitration, still Fascists do not seem to have any faith whatever in universal peace. Mussolini's recent article for the *Enciclopedia Italiana* proves that beyond doubt. Professor Silvio Trentin, in his book *Le Fascisme à Genève* (Paris, Marcel Rivière, 1932; 262 pp. 15 francs), has tried to show that Mussolini's peaceful gestures have not been sincere, that he has never

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taken any constructive initiative to help the League to establish a stable and lasting organization of peace and that the disarmament policy of the Fascist government could be explained by the fact that Italy has reached already the extreme limits of "national economic possibilities". However, Professor Trentin's book is less a criticism of the foreign policy of Fascism than an attack on the weakness of the League of Nations, which has permitted Fascism to extend its long arm over Albania and Bulgaria and to develop an aggressive policy. As a matter of fact, argues Professor Trentin, who has also written a book on Italian constitutional law, Italy is not really entitled to be a member of the League, because does not Article 1, paragraph 2 of the Covenant specify that only "*tout état . . . qui se gouverne librement*" may become a member of the League? Fascist Italy not being governed "*librement*", according to Signor Trentin, should not be represented at Geneva. Apart from the interpretation that one might give to the English text of the Covenant, including the word "self-governing", Signor Trentin has ignored the fact that Italy was an original member of the League as one of the countries named in the Annex, and that only by a stretch of the imagination could one interpret paragraph 4 of Article 16 so as to please Professor Trentin. Some of the quotations in the book are not accurate, perhaps because the author has referred to a correspondent's version rather than to the original Italian, as in the case of Mussolini's reference to German tourists in Italy and to the policy of his predecessor in the Upper Adige (p. 169). On the whole, however, Professor Trentin's book is more dependable and less partisan than the works of other anti-Fascist writers. It may be read with advantage as an offset to the glowing pictures of Fascist achievements as given by Fascist writers.—GIOVANNI SCHIAVO, New York City.

The United States and Great Britain, by Carl Russell Fish, Sir Norman Angell and Rear Admiral Charles L. Hussey, U.S.N. (retired) (published for the Chicago Council on Foreign Relations by the University of Chicago Press, Chicago, 1932; xi, 235 pp. $1.50) is the third volume in a series on American foreign policies published by the Chicago Council on Foreign Relations. It contains a sketch of Anglo-American diplomacy by a distinguished American scholar together with two viewpoints, one by an American, the other by a British subject. In seventy-eight colorless and monotonous pages, Professor Fish presents a chronology of the diplomatic relations between the United States and Great Britain from 1776 to 1930. Admiral Hussey's contribution to the part of the book de-

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voted to the expression of opinion is handicapped from the outset by being based on the false assumption that all important British-American problems arise from century-old English concepts of paramount interest, special privilege and control in conflict with the traditional and exalted American "concepts of equality of opportunity". He ignores the fact that a logical Monroe Doctrine may mean the equality of opportunity for all powers to participate with America in the policing of the Caribbean and Central America. In addition to his attack upon British naval policy, Admiral Hussey delivers a fulmination against the League of Nations on the ground that "Geneva is London's distant control station for world politics as Hongkong is for British world trade in the Far East" (p. 213). But proof for British domination of the League is not offered. In contrast with the trivial arguments of the American admiral, Sir Norman Angell presents a good-natured, well-balanced and philosophical discussion of the clash of British imperialism with American trade interests, and of British participation in world coöperation for international peace with our traditional isolation. The candid reader of Sir Norman's pages will admit that while British imperialism appears neither better nor worse than American economic conquest, British coöperation for international peace has much the better of American isolation.—KENNETH COLEGROVE, Northwestern University.

Economic Principles and Problems, edited by Walter E. Spahr (New York, Ray Long and Richard R. Smith, 1932; 2 vols. ix, 655; v, 627 pp. $6.00), appears at first glance to be the traditional "principles and problems" with which all economists are familiar. The first volume begins with the orthodox chapters on the development of economic institutions. The final chapter of the second volume is a statement of various political and economic philosophies. There are sections devoted to production, value and price, distribution, and such practical affairs as the business cycle, money and banking, transportation, marketing, social insurance and the public economy. This superficial resemblance to the neo-classical economics found in most textbooks is not entirely misleading, for the spirit of the work is that found in such textbooks. However, the older conceptual terms are used with new meanings. Such words as land, capital, management, rent, interest and profits are consciously modified. Logical fallacies in the older usage are pointed out and new definitions adopted in order to make the words more closely approximate business parlance. The neo-classical theory, however, has been charac-

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terized by a certain logical consistency which runs through theories of production, value and distribution. By modifying the terminology this unity is destroyed. The shift in terminology does not appear so noticeably in the sections dealing with production, but in those touching upon distribution it becomes very apparent. In spite of common authorship (Mr. W. I. King), the general chapter on "Factors of Production" and the chapters treating profits, interest and rent do not seem to be integrated. Such integration is a logical necessity if a theory of distribution based on specific productivity is to be adhered to. And such a theory is stated in the chapters on "Exchange, Value, and Prices" (by Mr. L. A. Morrison): "Both the profits of business enterprises and the payments these enterprises make to those who supply them with goods and services [under competitive conditions] may be regarded as tending to be adjusted in accordance with the respective efficiencies of the recipients in ministering to consumer demands" (vol. I, p. 414). On the whole, one feels that the attempt to pour the new wine of modern business terminology into the old bottles of theoretical economic concepts has not been successful. The attempt to keep close to business practice has virtue. It lends reality to the discussion which is often lacking in textbooks of "principles". It is to be regretted that the practice was not adopted more wholeheartedly. The lack of theoretical unity also makes itself felt in the general organization of the book. The most glaring example of this is the insertion of three sections, one on business cycles, one on public utilities, and one on transportation, immediately following the discussion of money and credit, and immediately preceding the chapters on distribution. In contrast with this disorganized condition of the book as a whole, the work of most of the contributors is of high order. Mr. Spahr's discussion of Money and Banking and Mr. Studenski's treatment of the Public Economy impressed the reviewer particularly favorably. The volumes are significant in representing one trend in the teaching of economics. This trend may be described as the attempt to link economic theory of the neo-classical type with the concrete functioning of American business. Instruction of such a character in beginning courses tends to make students feel that the main structure of economic life is fairly well fixed and that the principles for understanding and interpreting that structure are those which are ordinarily called "economic laws". Students form the idea that the organization of economic affairs in which they are now living is so satisfactory that minor repairs are needed at only a few points. Such

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teaching tends to minimize the economic process, the periodic breakdown of productivity motivated by the profit incentive, the rapid rate at which some of our most common economic instruments are being changed (for example the customs, usages and law which constitute the banking and credit system). It is possible to formulate an argument for the teaching of such economics. But it is well to recognize frankly the results which it may be expected to bring.—T. C. BLAISDELL, JR., Columbia University.

It is fortunate that Professor L. C. A. Knowles left material sufficiently far advanced in preparation to make possible the appearance of her most recently published book—*Economic Development in the Nineteenth Century: France, Germany, Russia and the United States* (London, George Routledge & Sons, Ltd., 1932; viii, 368 pp. 12s. 6d.) Supplementing her earlier work on Great Britain and the one, written later but published earlier, on the British Empire, it completes her trilogy of general studies of economic history in the nineteenth century. It gives free expression to her distinctive qualities of mind. Thoroughly concrete, it is yet marked by breadth of grasp and imaginative insight, by analytical power that keeps major principles constantly to the fore and never loses itself in detail. The interplay of political and economic forces is considered basic in the interpretation of the period and the stress upon their interdependence is a distinctive feature of the book. There is admirable coördination also of the experiences of the various countries. The limited space has meant great compression and at times possible over-simplification of treatment but Mrs. Knowles never lost proportion nor clearness and sureness in generalization. Her own economic and political philosophy and interests inevitably influenced her interpretation and criticism. Her approach is from the British point of view, as shown in both general outlook and references to England's influence upon the other countries or contrasts of England's procedure with that of the other nations. But there is on the whole sympathetic understanding of the differences produced by different historical traditions and geographic conditions. The thesis is well stated in the general introduction. "It is the play of the ideas and inventions of the two giants, England and France, on the feudal agricultural Empires of Central and Eastern Europe, that constitutes much of the fascination of the economic history of the nineteenth century. It is, further, the reaction of the Old World on the New, transforming the United States, a great empty continent, into a huge food-producing and industrial entity, and the reaction of this New World with its grain

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and meat exports on the Old, which again helped to alter the whole character of the economic development of Europe after 1870. These stupendous world movements emanating from England and France, transforming Germany and Russia, spreading to the United States, permeating South America, impinging upon Africa and reconstructing India and Japan, reacting on China, colonizing Australia and making its influence felt in remote Pacific islands, constitute the world revolution we have to examine" (pp. 4-5). "Thus it is seen that personal freedom, involving agricultural reconstruction, engineering and machine production, mechanical transport, and national expansion for markets and raw materials, are the main economic features of the nineteenth century" (p. 8). In pursuit of her theme Mrs. Knowles divided her study topically. The Agricultural Revolution, the Industrial Revolution, the revolution wrought by mechanical transport, national commercial policies and the growth of state action are concisely studied successively, as their history developed in each country. A selective bibliography and footnote references point out the principal works available for the further investigation of each subject. The result is a highly useful introduction to a most important phase of economic history. The book was obviously written before current economic problems became so acute as at present. Its perspective is perhaps the more nearly normal for that reason, but there is an occasional statement in the present tense about conditions and problems, at least in the United States, that reads a little strangely at the moment. However, ordinarily no attempt is made to carry the story beyond the end of the nineteenth century or at most 1914, and until then the touch is sure.—JUDITH BLOW WILLIAMS, Wellesley College.

The history of economic thought in the colonial period is presented with unusual discrimination in judgment and genuine felicity of style in *American Economic Thought in the Seventeenth Century* (London, P. S. King & Son, Ltd., 1932; x, 292 pp. 12s.) by E. A. J. Johnson. The author has achieved a synthesis of widely scattered allusions and discussions which enables us intimately to enter into the thought of the colonial writers over a wide range of topics. In the control of economic activity, in their theories of colonization, and in their views upon the increase of wealth the colonists broke away from many of the theses dominant in European thought. Their concepts of the control of enterprise reflect some elements of English mercantilism and not a little medieval doctrine of beneficent surveillance, but the characteristic features of economic control were

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derived from the special problems of the colonies. Agriculture, land policy and town planning were essentially novel problems. Seventeenth century discussion and legislation laid the foundations of the characteristic features of land policy and settlement in the various sections. In the industrial field the protection of infant industries was urged both in Virginia and in Massachusetts though without much analysis of the grounds—Hamilton's famous report did no more than complete the analysis of a highly characteristic colonial policy. In their comments on colonization the colonials gave little heed to the possible advantages of the colonies to the mother country; the imperial bond was not keenly felt. The notion of the colony as a religious refuge was, however, vividly present. The monetary difficulties experienced by the colonies generated a substantial discussion of the concept and functions of money which did not at first produce any distinctive doctrine. The problems of the free mint, the Massachusetts bills of credit and the banking schemes developed a sharp controversy between a narrow commodity theory of money and a rough formulation of basic elements in a broad theory of credit. The defense of issues of government paper developed several important theses that marked an advance in thought, but the discussions of the bank schemes reveal only the incomplete analysis of credit that underlay the land-bank schemes common in England. Wages, interest and taxation received some attention and brief intimations of new theories appear even earlier than among Continental writers. There are passages which reveal appreciation of the relation of productivity to wages, and in the field of taxation, a benefit theory is sketched by Roger Williams seven years prior to Hobbes' *Leviathan*. Despite considerable interest in theoretical problems the actual systems of taxation did not rise above a narrow regard for fiscal expediency.—Abbott Payson Usher, Harvard University.

In the various popular works on the development of civilization that have recently appeared the rôle of mineral substances in that development is generally slighted. People talk of machines, not of the materials which must be made available, and their properties understood and controlled, before machines can be built. Mr. T. A. Rickard, a mining engineer and former editor-owner of the *Engineering and Mining Journal, Mining and Scientific Press* and *Mining Magazine*, has utilized his retirement from professional and journalistic work to write the story of man's progressing knowledge of the nature of, and means of control over, mineral substances in order to apply them to the fulfilment of his personal and social aims. The

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result is a volume entitled *Man and Metals* (New York, Whittlesey House, McGraw-Hill Book Company, 1932; 2 vols. xiii, 1068 pp. $10.00). The work involved not only the bringing together of material widely scattered through the proceedings of learned societies but also its critical review, because the authors of historical studies have often been too unfamiliar with mineral technology to present the results of their studies with complete technical accuracy. The words "brass" and "bronze", for example, are sometimes used as though they were interchangeable, and either may be found applied to what is actually only an impure form of copper. The work therefore supplies an authoritative source of reference, each chapter being supplemented with a comprehensive but select bibliography. It is also a valuable monograph on the history of the development of mineral technology, so written as to be interesting as well as informative.—THOMAS T. READ, Columbia University.

Japan and America: A Journey and a Political Survey (New York, The Macmillan Company, 1932; viii, 359 pp. $3.50) by Henry W. Taft is divided, as its subtitle indicates, into two parts. The first is an account of the journey to Japan which the author made in company with a number of distinguished Americans, including Mr. Frank A. Vanderlip, Dr. Jacob Gould Schurman and Mr. George Eastman, on the invitation of a number of outstanding Japanese, such as Prince K. Tokugawa, Baron E. Shibusawa and Dr. T. Dan. The journey was made in 1920 at a time when Japanese-American relations were especially strained over the question of Japanese immigration to the United States and the suspicions engendered in this country by Japan's aggressive actions on the continent of Asia. Thus the author discovered, as he writes in his preface (p. vi): "When I arrived in Japan I found that the chief cause of the invitation which led to our visit was the promotion of better feeling between this country and Japan". For this reason, a book which he intended to be at first a travelogue was expanded in the second part into a discussion of Japanese-American relations during the past quarter-century. The resurgence of Japanese imperialism on the continent of Asia in September 1931 necessitated the postponing of the date of publication of the work in order to include supplementary chapters on the Manchuria and Shanghai incidents. The treatment of the events of the past year in the Far East and the efforts of the members of the League and the United States to secure peace is well documented and presents a judiciously worded defense of Japan's actions. Yet the author has had to admit that "mistakes like that

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of the Twenty-One Demands have been made, and in Manchuria there has been at least the appearance of unnecessary aggression . . ." He continues, however, after making this mild statement, hopefully to assert that "Japan is becoming rapidly a representative democratic nation . . . and there are evidences that a liberal policy is emerging" (p. 308) which is receiving support from commercial interests. With his final conclusion, "that our foreign policy in relation to Oriental matters and the development of our export and import trade with China and Japan must to a great extent depend upon our maintaining not only friendly relations with the government of Japan, but also upon our cultivating among the people of that country a cordial and cooperative spirit" (p. 309), there can be little disagreement — so far as it goes. If, however, we were to achieve that end by deserting the principles embodied in the Nine Power Treaty and the Kellogg-Briand Pact, thereby not only impairing the cordial relations which obtain between the Chinese and ourselves, but also jeopardizing the validity of the peace machinery of the world, it would be at far too great a price. Mr. Taft's account of the Japanese immigration issue culminating in the passage of the immigration law of 1924, followed by chapters on "Public Opinion Here and Abroad concerning Japanese Exclusion" and the "Revival of the Effort to Include Oriental Races in the Quota System" in 1930 and 1931, is especially noteworthy. There can be no doubt that a decision on the part of the government to allow Japanese immigration on the quota basis would greatly lessen the existing tension between the two countries.—CYRUS H. PEAKE, Columbia University.

In a small volume which treats of *Agricultural Depression and Farm Relief in England 1813-1852*, by Leonard P. Adams (London, P. S. King & Son, Ltd., 1932; x, 191 pp. 7s. 6d.) the suggestion is hazarded that a study of a historical situation similar to the present "may furnish a perspective from which current [agricultural] problems may be viewed with greater insight." Fortunately no insistence is made on this idea but rather appraisal of the past in terms of the present is left to the reader's judgment. The public of today is less interested, in the reviewer's opinion, in an analysis of the causes of depression one hundred years ago than it is in the means of recovery. The present study by closing with the year 1852 does not consider to any adequate degree the "Golden Age" of English agriculture which immediately followed and no definite information is imparted as to whether agricultural prosperity resulted from free trade, an

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increased supply of precious metals, political movements disruptive to peace on the continent, general trade conditions or some other circumstance. Moreover, the historical student may question whether the distant past can give pertinent data for use to present-day England unless the data be interpreted in the light of agricultural changes which resulted from the development of transportation facilities, especially in the eighties. The volume emphasizes the first rather than the second quarter of the century. It attributes the high price level of agricultural products during the Napoleonic wars in part to deficient harvests at a time when there were naturally serious obstructions to trade and in part to an increased domestic demand, created by the larger volume of currency and credit which accompanied the suspension of specie payments, a growing population and governmental purchases for the struggle. But, as it points out, costs of production also increased with the upward trend of national taxes, poor rates and expenditures for labor. With the abundant harvest of 1813 and, later, with the establishment of peace came a decline in prices and the beginning of a depression destined to last, with but few periods of relief, for forty years. Agricultural interests, well represented in Parliament, used their political strength to secure the passage of the famous Corn Law of 1815. This act probably aided farmers by keeping out foreign grain when the home markets were overstocked; but it was ineffective to establish a minimum price, as is seen from the fact that between 1818 and 1823 the average price of all grain fell off fifty-four per cent. Select committees investigated conditions on various occasions but Parliament, though apprised of many interesting remedial proposals, concluded that the problems could not be solved by legislation. Burdens were but slightly mitigated by two rather general measures, the Poor Law Amendment act of 1834 and the Tithe Commutation act of 1836. Any single volume on this topic must, of necessity, be lacking in details. The present monograph displays interest in contemporary reactions to agricultural problems but merely voices the ideas of *The Farmer's Magazine*, thereby ignoring valuable comments of the general periodicals. Brevity, however, has tended to emphasize important matters, and, combined with statistical material and clear organization, has assisted toward the production of a convenient summary of agricultural conditions for a complex period.—JOSEPH H. PARK, New York University.

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